

ABERDEENSHIRE COUNCIL**LOCAL REVIEW BODY****WOODHILL HOUSE, ABERDEEN, FRIDAY 24 APRIL, 2015**

Present: Councillors S W Pratt (Chair), P W Bellarby, R Cassie, P K Johnston, C H Nelson and C Shand.

Apologies: Councillors R Cowling for (LRB 262), D A Ross and J J Strathdee (for LRB 262).

Officers: Planning Adviser (Mark Myles), Senior Solicitor (Peter Robertson) and Committee Officer (Frances Brown).

OPENING REMARKS BY CHAIR

The Chair welcomed Councillor R Cassie to his first meeting as the new substantive member for the Banff and Buchan area.

1. DECLARATION OF MEMBERS' INTERESTS

In respect of declaration of members' interests as required by the Code of Conduct for members:-

Councillor P W Bellarby declared an interest in LRB 272 as the application site was in his ward;

Councillor F C P Hood reported that he had not been in attendance when LRB 254, 256 and 262 had previously been considered, therefore he would withdraw from proceedings when those cases were being determined; and

Councillor R Cassie declared an interest in LRB 270 as the application site was within his ward.

2. PUBLIC SECTOR EQUALITY DUTY

In making decisions on the following items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act, 2010:-

- (2) to have due regard to the need to:-
 - (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it
- (2) where an Equality Impact Assessment was provided, to consider its contents and take those into account when reaching their decision.

3. SPREADSHEET HIGHLIGHTING RELEVANT POLICIES FOR EACH REVIEW

The Local Review Body had before them and noted a spreadsheet which listed the policies which would be referred to in consideration of each of the reviews presented before them, as contained within the Aberdeenshire Local Development Plan (2012).

RECONVENED REVIEWS

4. LRB 254 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR THE ERECTION OF A 60KW WIND TURBINE ON 36.8M TOWER, TOTAL HEIGHT TO BLADE TIP 48.3M AT LAND TO THE WEST OF ANDREWSFORD, ST KATHERINE'S, INVERURIE – REFERENCE: G/APP/2014

Local Review Body: Councillors S W Pratt (Chair), P K Johnston and C H Nelson.

Reference was made to the Minute of the Local Review Body meeting of 30 January, 2015 (Item 4, Page 1543) where the Local Review Body had deferred consideration of the Notice of Review to allow them to follow further procedure by way of (1) a written response from the Environmental Health Service on the acceptability of the proposed development and (2) an unaccompanied site inspection to the application site which it was reported had taken place on 20 March, 2015.

Reference was then made to the Minute of the Meeting of 27 March, 2015 (Item 4) when the Notice of Review had been presented for a second time with the additional information which the Local Review Body had requested. The Local Review Body had at that meeting considered legal advice relating to on ongoing discussions between the agent and the Environmental Health Service and had agreed that they should defer consideration of the Notice of Review for a second time to allow them to follow further procedure by way of seeking a response from the Environmental Health Service on comments which had been made by the agent to a submission dated 10 March, 2015 which had been presented on Page 11 of the agenda papers for the meeting.

It was reported that the Environmental Health Service had responded with a letter dated 30 March, 2015 which was presented on Page 11 of the agenda papers and that response had confirmed that Cromlet Farmhouse did have a financial interest in the proposed development and as such could be expected to tolerate slightly higher levels of noise. The agent had responded to that submission and welcomed the response from the Environmental Health Service and acknowledged that properties which had a financial involvement to a wind turbine development can be subject to an increased lower limit of 45dB(A) and the proposed wind turbine emissions would be at least 10dB(A) below the recommended level and conditions attached to a granted application could reflect that.

The Planning Adviser introduced the Notice of Review and provided the Local Review Body with an overview of the application as presented at the initial meeting of 30 January, 2015 and a recap of the Appointed Officer's primary reasons for refusal, namely:-

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The proposal fails to comply with Policy 3 Development in the countryside and SG Rural Development 2: Wind farms and medium to large wind turbines and Policy 8 Layout, siting and design of new development and SG LSD2: Layout, siting and design of new development of the Aberdeenshire Local Development Plan 2012, in that the proposed wind turbine, read in conjunction with others in the immediate landscape will, by reason of the difference in size and scale, result in a visually discordant feature in the landscape.
- (2) The proposal is considered to have an adverse impact on the character of the area both individually and cumulatively and therefore is contrary to Policy 12 Landscape Character, SG Landscape 1: Landscape Character.

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for it to consider the review without further procedure. The Local Review Body were in agreement that they had sufficient information before them proceeded to determine the Notice of Review.

The Local Review Body agreed that the main determining issue for the proposed development as presented before them was whether the general policy presumption in favour of wind energy development was outweighed by potential adverse impacts to the detriment of the character and appearance of the local landscape both individually and cumulatively and whether the proposal would result in a visually discordant feature in the landscape.

During discussion the Local Review Body highlighted the benefit of undertaking a site inspection to the application site and surrounding area which had allowed members to gain a greater appreciation of the topography within the local area as well as a greater understanding of the relationship that the proposed wind turbine development would have to other approved and pending wind turbine developments in the surrounding area.

When considering the information gained during the course of the site inspection opposing views were expressed.

One member of the Local Review Body noted that the site inspection had enabled him to conclude that the proposed wind turbine would not result in a detrimental impact to the local landscape or the visual amenity of the area as there was already an existing wind turbine at Cromlet Farm which was larger and located further up the hill than the proposed turbine at Andrewsford. He also noted that only one objection had been received from local residents from St Katherines and no objections had been received from any of the statutory consultees. As such he was minded to uphold the Notice of Review as he felt that it would comply with the policy criteria contained within the Local Development Plan.

Those who were minded to oppose the development took the view that it had been extremely helpful to compare the proposed wind turbine development with the existing wind turbine at Cromlet Farmhouse as that had informed their view that due to the size, scale and model of the proposed wind turbine development it would result in a visually discordant feature on the landscape. They also took the view that when looking at the proposed application site from the nearest settlement known as St Katherines they agreed that the proposal would have an adverse impact on the character of the area both individually and cumulatively and as such the proposal was deemed to be contrary to Policy 12 and SG Landscape 1. They therefore were in agreement with the Appointed Officer's assessment.

The majority view expressed by the LRB members was that the proposed single turbine would result in adverse impacts to the detriment of the character and appearance of the local landscape both individually and cumulatively and when read with others in the immediate landscape, it would result in a visually discordant feature in the landscape.

After due consideration, the Local Review Body **agreed** to Uphold the Appointed Officer's decision and Refuse Full Planning Permission.

5. LRB 256 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF 3 NO. 800KW WIND TURBINES, 55.6M HUB HEIGHT, 79.60M HEIGHT TO BLADE TIP AND ANCILLARY INFRASTRUCTURE AT LAND TO SOUTH WEST OF MAINS OF COLLITHIE, GARTLY, HUNTLY – REFERENCE: M/APP/2014/1032

Local Review Body: Councillor S W Pratt (Chair), P K Johnston and C H Nelson.

Reference was made to the Minute of the Local Review Body meeting of 30 January, 2015 (Item 5, Page 1546) where the Local Review Body had agreed to defer consideration of the Notice of Review to allow them to follow further procedure by way of (1) additional information from the Environmental Health Service, Ofcom and Arqiva on the suitability of the proposed development and (2) an unaccompanied site inspection to the application site and surrounding area. It was reported all of the additional information had been received and all parties had been afforded the opportunity to comment on that information and the site inspection had taken place on Friday 20 March, 2015.

Reference was then made to the Minute of the Local Review Body meeting of 27 March, 2015 (Item 5) when the Notice of Review had been presented for a second time following receipt of the additional information which the Local Review Body had requested. The Local Review Body had at that meeting considered legal advice relating to additional information which had been received from one of the objectors and after due consideration the Local Review Body had agreed to defer consideration to allow them to follow further procedure by way of accepting one additional representation which had been submitted by an objector which had presented additional information which had not been provided as part of their previous submission.

It was reported the additional information had been presented on page 20 of the agenda papers and referred to two large wind turbine developments at Wheedlemont, Rhynie and the applicant had responded to those comments as presented on page 23 of the agenda papers which had refuted that reference to those wind turbine developments could be considered to be additional information nor did they consider it to be a material consideration in the determination of the Notice of Review.

The Planning Adviser introduced the Notice of Review and provided the Local Review Body with an overview of the application as presented at the initial meeting of 30 January, 2015 and a recap of the Appointed Officer's primary reasons for refusal, namely:-

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The proposed wind turbine would result in adverse visual and landscape impacts to the detriment of the character and appearance of the local landscape and visual amenity of the area. The proposed development is contrary to Policy 3: Development in the countryside and SG Rural Development 2: Wind farms and medium to large wind turbines, Policy 8: Layout, siting and design of new development and SG LSD2: Layout, siting and design of new development, and Policy 12: Landscape Character, SG Landscape 1: Landscape Character, as contained in the Aberdeenshire Local Development Plan, 2012.
- (2) The proposed development would be by virtue of its siting have a potentially significant adverse impact on the amenity of residential properties located in the area notably those located to the north of the development including those at Duncroft, Burncruinach, Bridgend and Allt Dubh Cottage (Collithie Cottage). There is lack of information to suggest that the impact would be acceptable and therefore the proposed is considered contrary to Policy 3: Development in the countryside and SG Rural Development 2: Wind farms and medium to large wind turbines in Aberdeenshire Local Development Plan (2012).
- (3) By virtue of their scale, siting and location, the turbines would have a detrimental impact on the setting of the category B listed Mains of Collithie farmhouse. As such it is considered that the development fails to comply with Policy 13 and SG Historic Environment 1 of the Aberdeenshire Local Development Plan (2012).

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for it to consider the review without further procedure. The Local Review Body were in agreement that they had sufficient information before them proceeded to determine the Notice of Review.

The Local Review Body agreed that the main determining issue for the proposed development as presented before them was whether the general policy presumption in favour of wind energy development was outweighed by the potential adverse impacts to the detriment of the overall composition and quality of the landscape character and visual amenity of the area; potential adverse impacts on the amenity of residential properties located in the area and also a potential detrimental impact on the setting of a Category B listed building.

During discussion the Local Review Body highlighted the benefit of undertaking a site inspection to the application site and surrounding area which had allowed members to gain a greater appreciation of the potential impacts that may arise from the proposed wind turbines and also their setting within the wider landscape and relationship to nearby properties and the Mains of Collithie listed farmhouse.

When considering all of the information before them and the visual information gathered during the course of the site inspection the Local Review Body took the view that the scale and size of the wind turbines would become a focal point in the wider landscape to the detriment and quality of the landscape character of the area. The Local Review Body took cognisance of the fact that the application site was on the boundary of two Landscape Character Areas and from a number of angles would have Grampian Outliers as a backdrop and the site was on a ridge and on the brow of a hill which they considered would make the turbines a very prominent feature in the landscape.

The Local Review Body also referred directly to the relationship of the proposed wind turbines to the nearest residential properties and on the setting of the listed building at the Mains of Collithie farmhouse and agreed that as a result of the scale, siting and location, the impact on the setting would have a significant impact on the amenity of a number of residential properties to the north west of the site and would impact on the listing building contrary to Policy 3 and SG RD2 and Policy 13 and SG Historic Environment 1.

The Local Review Body therefore agreed with the Appointed Officers decision to refuse permission and the reasons for it.

The Local Review Body **agreed** to uphold the Appointed Officer's decision and Refuse Full Planning Permission.

6. LRB 262 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF 1 NO. 500KW (50M TO HUB HEIGHT, 77M TOTAL HEIGHT) WIND TURBINE, TEMPORARY METEOROLOGICAL MAST, TOTAL HEIGHT 50M, COMBINED TRANSFORMER AND SUBSTATION, FORMATION OF ACCESS TRACK, HARDSTANDING AND ASSOCIATED INFRASTRUCTURE AT LAND TO WEST OF THE MOORIE BOARDING KENNELS, ST CYRUS, MONTROSE, ANGUS – REFERENCE: KM/APP/2013/3692

Local Review Body: Councillors S W Pratt (Chair), P W Bellarby and C Shand.

Reference was made to the Minute of the Local Review Body meeting of 27 March, 2015 (Item 6) where the Notice of Review was deferred to allow the Local Review Body to follow further procedure by way of an unaccompanied site inspection to the application site and surrounding area. It was reported that the site inspection had taken place on 24 April, 2015 and the Local Review Body resumed consideration of the Notice of Review against Refusal of Full Planning Permission for the Erection of 1 No. 500kW (50m to Hub Height, 77m Total Height) Wind

Turbine, Temporary Meteorological Mast, Total Height 50m, Combined Transformer and Substation, Formation of Access Track, Hardstanding and Associated Infrastructure at Land to West of Moorie Boarding Kennels, St Cyrus, Montrose, Angus – Reference: KM/APP/2013/3692.

The Planning Adviser reported that the Notice of Review Form which has been circulated for the meeting on 27 March, 2015 was not the correct version as an amended version had been submitted when the Notice of Review was originally submitted. The correct Notice of Review Form had been circulated and as presented on Page 26-29 of the agenda papers and the agent had requested further procedure by way of a hearing and or a site inspection.

The Planning Adviser introduced the Notice of Review and provided the Local Review Body with an overview of the application as presented at the initial meeting of 27 March, 2015 and a recap of the Appointed Officer's primary reasons for refusal, namely:-

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The Planning Service consider that the proposed wind turbine development will have a disproportionate affect in its setting, and due to the siting and size of the turbine the proposed development would introduce a new feature visible from and to the coastal zone. In this case and in considering the 500kW capacity of development we consider that the landscape and visual impact of the proposal outweighs the policy considerations in support of renewable energy projects. Accordingly, the proposal does not comply with the following policies of the Aberdeenshire Local Development Plan 2012; Policy 12 Landscape conservation, Policy 8: Layout, siting and design of new development and SG Landscape 1: Landscape character. In this case the adverse impact would outweigh any small benefits to renewable energy and as such the application is recommended for refusal.

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for it to consider the review without further procedure. The Local Review Body were in agreement that they had sufficient information before them proceeded to determine the Notice of Review.

The Local Review Body agreed that the main determining issue in the review as presented before them was whether the general policy presumption in favour of wind energy development was outweighed by potential adverse landscape and visual impacts to the overall quality of the landscape and character of the area.

From the outset the Local Review Body acknowledged the benefit of undertaking a site inspection of the application site and surrounding area as it had afforded them the opportunity to gain a real appreciation of the potential impacts that may arise from the proposed wind turbine from a number of different vantage points which had included viewpoints within Angus Council.

The Local Review Body focused their attention on the Appointed Officer's reasons for refusal and were in agreement that the correct policies had been applied. The Local Review Body agreed that the proposed turbine, due to its scale and siting would in their view have a disproportionate impact on the character of the area. This was because of the nature of the hillside location which would result in the proposed turbine being a prominent feature on the landscape which would be visible from a wide area, including to and from the coastal zone.

The Local Review Body were unanimous in their view that the proposed single turbine would be sited in a sensitive landscape and due to its proposed scale and location, the turbine would have an adverse impact on the overall quality of the character of the landscape, and a

disproportionate effect in its setting, contrary to the policies and supplementary guidance within the Aberdeenshire Local Development Plan.

The Local Review Body therefore **agreed** to uphold the Appointed Officer's decision and Refuse Full Planning Permission.

NEW REVIEWS

7. LRB 270 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF 1 NO. WIND TURBINE (HUB HEIGHT 25 METRES), TOTAL HEIGHT 35 METRES AT SITE AT STONEWALL, GAMRIE, BANFF – REFERENCE: BB/APP/2014/0263

Local Review Body: Councillor S W Pratt (Chair), P W Bellarby, F C P Hood and C Shand.

There had been submitted a Notice of Review and supporting documents by the Agent which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for the Erection of 1 No. Wind Turbine (Hub Height 25 Metres), Total Height 35 Metres at a site at Stonewall, Gamrie, Banff – Reference: BB/APP/2014/0263.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested a site inspection and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 12 valid letters of representation had been received which were opposed to the proposed development and the material issues raised within those representations were:-

- Visual impact upon the conservation area of Crovie;
- It would detract from the natural beauty of the landscape;
- Turbine would be blot on the landscape and would encroach upon an area which has remained protected from the proliferation of turbines elsewhere in Banff and Buchan;
- Previous decision and appeal outcome should stand as points remain valid;
- Impact on tourism;
- Noise impact; and
- Danger to wildlife.

Further to consultations undertaken it was reported that Aviation and Telecommunications consultees had raised no objections to the proposed development; Environmental Health had raised no objection to the proposed development subject to appropriate conditions and informatives being attached to any approval; Environment had reported that the application remains unacceptable in terms of impact upon the historic environment at Crovie as the turbine would be visible from parts of the village; the University of Aberdeen School of Geosciences had requested that if approved, they are notified of the date of commencement of the development to allow staff to access the site to observe work and take samples and record items of interest and the Roads Development Service did not object to the development but had requested that advisory comments should be applied if the application were approved.

One further representation was received from Historic Scotland in response to the Notice of Review which reiterated the previous comments that they made as part of their original submission which confirmed that they did not object to the proposed development.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The proposed development is contrary to Policy 3: Development in the Countryside, SG Rural Development 2: Wind Farms and Medium to Large Wind Turbines, Policy 4: Special Types of Rural Land, SG STRLtype 1: Development in the Coastal Zone, Policy 12: Landscape Conservation, SG Landscape 1: Landscape Character and Policy 13: Protecting, Improving and Conserving the Historic Environment , SG Historic Environment: Listed Buildings and SG Historic Environment 2: Conservation Areas, as contained within the Aberdeenshire Local Development Plan, for the following reasons:-
- (a) the proposed development would have a detrimental impact upon the established character of this coastal zone and would not respect the character and amenity of the surrounding area as required by this policy;
 - (b) the proposed development would have a detrimental impact upon the character and setting of the Crovie Outstanding Conservation Area as well as numerous listed buildings contained within the village; and
 - (c) the cumulative impact of the proposed development, as viewed along with other consented and pending applications for wind turbines in the immediate and wider area could detrimentally change the character of this coastal zone resulting in an overall loss of visual amenity and changing of this coastal zone resulting in an overall loss of visual amenity and changing the landscape character to an unacceptable degree.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were:- Policy 3: Development in the Countryside and SG Rural Development 3: Other Renewable Energy Developments; Policy 4: Special Types of Rural Land and SG STRLtype 1: Development in the Coastal Zone; Policy 8: Layout, Siting and Design of New Development and SG LSD2: Layout, Siting and Design of New Development; Policy 13: Protecting, Improving and Conserving the Historic Environment and SG Historic Environment 1: Listed Buildings and SG Historic Environment 2: Conservation Areas. Other material considerations were: Aberdeenshire Council Planning Advice 1/2014 – The Strategic Landscape Capacity for Windfarms (Strategic Landscape Capacity Assessment for Wind Energy in Aberdeenshire – Final report by Ironside Farrar, March, 2014; Aberdeenshire Council Planning Advice 12/2012 – Landscape Character Advice for Small Scale Development; Aberdeenshire Council Planning Advice 2/2012 – Wind Turbines – Distance and Noise Calculations; Aberdeenshire Council Planning Advice 2/2005 – Use of Wind Energy in Aberdeenshire, Guidance for assessing wind energy developments; Scottish Government – Onshore Wind Turbines; SEPA: Standing Advice for Small Scale Wind-Farms below 10mW not subject to formal Environmental Impact Assessment and SNH: Assessing the impact of small-scale wind energy proposals on the natural heritage (2012).

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure.

During discussion the Local Review Body agreed that they would like to request further procedure by way of an unaccompanied site inspection to the application site and surrounding area to allow them to gain a real appreciation of the landscape capacity for the area. The Local Review Body referred directly to the Appointed Officer's assessment of the application which had highlighted a variety of different landscapes within the area consisting of open attractive coastal landscape, conservation villages, environmentally sensitive areas, and agricultural land and they agreed that by visiting the site they could assess what impact the proposed development may have both individually and cumulatively when considered along with approved and pending wind turbine developments .

The Local Review Body then referred to page 74 of the agenda papers which presented a blank page. It was highlighted that that page would seem to be page 2 of the Ecological

Survey report which has been submitted by the agent and they requested that a full copy of the report was presented prior to determination.

After due consideration the Local Review Body **agreed** to DEFER consideration of the Notice of Review to allow them to follow further procedure by way of:-

- (1) to request that the agent provide the complete Ecological Survey Report; and
- (2) to undertake an unaccompanied site inspection to the application site and surrounding area to be held on Wednesday 15 May, 2015.

8. LRB 271 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF 1 NO. 800KW WIND TURBINE (HUB HEIGHT 50M, TOTAL HEIGHT 74M) AND ASSOCIATED INFRASTRUCTURE AT LAND AT UPPER MAINS OF TURRIFF – REFERENCE: F/APP/2014/4222

Local Review Body: Councillors S W Pratt (Chair), P W Bellarby, R Cassie, F C P Hood and C Shand.

There had been submitted a Notice of Review and supporting documents by the applicant which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for the Erection of an 800kW Wind Turbine (Hub Height 50m, Total Height 74m) and Associated Infrastructure at Land at Upper Mains of Turriff – Reference: F/APP/2014/4222.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested (1) further written submissions; (2) one or more hearing sessions; (3) a site inspection and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 17 valid letters of representation had been received (1 objection and 16 in support) to the proposed development and the material issues raised within those representations were:-

Objections

- Low frequency sound;
- Sleep disturbance; and
- General health concerns

In support

- Economic viability of the farm;
- Appropriate location;
- Sustainable resource; and
- Supports local economy

Further to consultations undertaken it was reported that Aviation and Telecommunications consultees had not objected to the development, however, the Civil Aviation Authority had requested that the Ministry of Defence be consulted 6 weeks prior to the commencement of construction; Environmental Health had been consulted and while their response had not been received at the time the Appointed Officer determined the application it was noted that their response had been received on 11 February, 2015 and that response confirmed that they had no objection to the development subject to appropriate conditions to ensure that the wind

turbine would not be illuminated by artificial lighting without prior notification of the planning authority and the Roads Service had no objection to the proposal subjected to the application of appropriate conditions and informatives if the application were to be approved.

It was then reported four further representations from consultees had been received in response to the Notice of Review as presented on Pages 458 – 467 of the agenda papers and those submissions reiterated the issues which they had previously raised in their original submissions.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The application fails to comply with Policy 3 Development in the Countryside and Supplementary Guidance Rural Development 2: Wind farms and medium to large wind turbines of the Aberdeenshire Local Development Plan 2012. The proposal will have an adverse cumulative effect and add a further turbine to previously granted permissions in very close proximity.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were:- Policy 3: Development in the Countryside and SG Rural Development 2: Wind Farms and medium to large wind turbines; Policy 8: Layout, siting and design of new development and SG LSD2: Layout, siting and design of new development; Policy 12: Landscape conservation and SG Landscape 1: Landscape character and Policy 14: Safeguarding of Resources and Areas of Search and SG Safeguarding 4: Safeguarding Transportation Facilities. Other material considerations were: Aberdeenshire Council Planning Advice 12/2012 – Landscape Character advice for Small Scale Development; Aberdeenshire Council Planning Advice 2/2012 – Wind Turbines – Distance and Noise Calculations; Aberdeenshire Council Planning Advice 2/2005 – Use of wind energy in Aberdeenshire Guidance for assessing wind energy developments; Scottish Government – Onshore Wind Turbines; SEPA: Standing advice for small scale wind-farms below 10mW not subject to formal Environmental Impact Assessment and SNH: Assessing the impact of small-scale wind energy proposals on the natural heritage (2012).

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure.

During discussion the Local Review Body were in agreement that having taken into consideration the views as presented as part of photomontages provided by the Planning Adviser to the Local Review Body they were minded that those images could only provide an indication of the potential visual effect of the wind energy development on that particular area of landscape. As such the Local Review Body were minded that they would like to follow further procedure by way of an unaccompanied site inspection to the application site and surrounding area. The Local Review Body agreed that this would afford them the opportunity to gain a real appreciation of the local topography and the possible detrimental impact that the proposed development may have both in its own right and cumulatively on the immediate landscape.

After due consideration the Local Review Body **agreed** to DEFER consideration of the Notice of Review to allow them to follow further procedure by way of:-

- (1) to undertake an unaccompanied site inspection to the application site and surrounding area to be held on Wednesday 15 May, 2015.

9. LRB 272 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR THE ERECTION OF 11 DWELLINGHOUSES AT PHASE 2, LAND TO THE NORTH OF SUNNYSIDE FARM, SUNNYSIDE DRIVE, DRUMOAK, BANCHORY – REFERENCE: KM/APP/2014/3232

Local Review Body: S W Pratt (Chair), R Cassie, F C P Hood and P Johnston.

There had been submitted a Notice of Review and supporting documents by the agent which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for the Erection of 11 Dwellinghouses at Phase 2, Land to the North of Sunnyside Farm, Sunnyside Drive, Drumoak, Banchory – Reference: KM/APP/2014/3232.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested a site inspection and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 3 valid letters of representation had been received which were opposed to the development and the material issues raised within those objections were:-

- This housing allocation is totally disproportionate;
- The development would create a glut of 4 and 5 bedroom detached homes in the village;
- The current application equates to 18% affordable housing below the target 25%;
- Having over 50% of the houses as 5 bedroom homes is not a mixed community;
- The site layout has the affordable housing at the very end of what would be a cul-de-sac and north facing, this is not integrating affordable housing into the community;
- Impact on school role call;
- No overriding public benefit;
- Existing drainage issues will be further impacted with more run off from hard surfacing and gardens;
- Concerns regarding the gradient of the slope to the rear of plot 20, with no proposed stabilisation or drainage;
- Privacy issues with house being located at a higher level than those in the existing development.

Further to consultations undertaken it was reported that Developer Obligations had advised that contributions would be sought towards Affordable Housing and a detailed assessment report would be sent to the agent; the Roads Service had requested and subsequently received a street engineering review and quality audit to allow them to fully assess the development, however, the Roads Service had not been able to submit an updated consultation response prior to the Appointed Officer determining the application; Planning Policy had advised that the most appropriate way to increase the density of the site would be to make a representation to the new Local Development Plan and that the developer had submitted a bid to the Main Issues report for 15-20 houses, however it was not considered that there was a requirement for additional housing land to be allocated in the new Local Development Plan. Scottish Water and the Education Service had not responded during the consultation period.

It was then reported that three additional representations had been received in response to the Notice of Review, as presented on Pages 655 – 659 of the agenda papers and the agent had responded to those representations as presented on Page 672-674.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The applicant had failed to demonstrate to the satisfaction of the Planning Authority that an exceptional circumstance exists whereby there is an overriding public benefit from delivering the proposed housing over and above the Local Development Plan allocation of 35 units and the proposal has not been through robust public consultation. The proposal is therefore directly contrary to the requirements of Policy 5: Housing land supply and Supplementary Guidance Housing 1: Housing land allocations 2007-2016 of the Aberdeenshire Local Development Plan 2012.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were:- Policy 5: Housing and Land Supply and SG Housing 1: Housing land allocations 2007-2016; Policy 6: Affordable Housing and SG Affordable Housing 1: Affordable Housing; Policy 8: Layout, Siting and Design of New Development and SG LSD2: Layout, Siting and Design of New Development, SG LSD5: Public Open Space and SG LSD11: Carbon Neutrality in New Development; Policy 9: Developer Contributions and SG Developer Contributions 1: Developer Contributions, SG Developer Contributions 2: Access to New Development, SG Developer Contributions 3: Water and Waste Water Drainage Infrastructure and SG Developer Contributions 4: Waste Management Requirements for New Development. The Proposed Aberdeenshire Local Development Plan 2016 was a material consideration.

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure.

During discussion the Local Review Body agreed that their decision for the application as presented before them hinged on the application of the policies contained within the Aberdeenshire Council Local Development Plan 2012 and the H1 housing land allocation within the settlement boundary for Drumoak and whether this could be considered to be an 'exceptional' case which could warrant a departure from those policies. The Local Review Body made reference to new Local Development Plan and queried whether the nature of the existing settlement boundary may change in the new plan.

The Local Review Body agreed that to assist them in their decision making they would seek additional information from the Planning Policy team, namely:-

- (i) the nature of the existing settlement boundary within the current Aberdeenshire Local Development Plan;
- (ii) confirm the proposed settlement boundary within the new Local Development Plan; and
- (iii) provide clarity on the status of the land in the new Local Development Plan

Once that information had been received all parties would be afforded the opportunity to comment on that submission prior to presenting the Notice of Review to a future Local Review Body meeting for determination.

After due consideration the Local Review Body **agreed** to DEFER consideration of the Notice of Review to allow them to follow further procedure by way of seeking additional information from the Planning Policy team, namely:-

- (iv) the nature of the existing settlement boundary within the current Aberdeenshire Local Development Plan;

- (v) confirm the proposed settlement boundary within the new Local Development Plan; and
- (vi) provide clarity on the status of the land in the new Local Development Plan

10. LRB 273 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR REPLACEMENT DWELLINGHOUSE AT NORTH REDBRIGGS, GREENESS, CUMINESTOWN – REFERENCE: F/APP/2014/4329

Local Review Body: S W Pratt (Chair), P W Bellarby, R Cassie, F C P Hood and P Johnston.

There has been submitted a Notice of Review and supporting documentation by the agent which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for a Replacement Dwellinghouse at North Redbriggs, Greeness, Cuminestown – Reference: F/APP/2014/4329.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested a site inspection and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that no valid representations had been received during the consultation period.

Further to consultations undertaken it was reported that Developer Obligations had advised that previous payments had been made under planning application APP/2009/2567 and as such no further payment were required and the Archaeology Service and the Roads Service had no objection to the proposal subject to appropriate planning conditions if approved.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The proposal fails to comply with Policy 3: Development in the Countryside, as contained in the Aberdeenshire Local Development Plan 2012 as the proposed dwellinghouse fails to meet the criteria set out in Supplementary Guidance Rural Development 1: Housing and Business Development in the Countryside in that:
 - (i) It is not a type that would be permissible in the green belt;
 - (ii) It is not on a site which has previously been developed and is now redundant;
 - (iii) It does not contribute to the organic growth of a settlement identified in Appendix 1;
 - (iv) It is not associated with the retirement succession of a viable farm holding;
 - (v) It is not an economic development proposal; and
 - (vi) It is not an appropriate addition to a cohesive group.
- (2) The application is deficient in information in respect of Surface Water Certification. It is therefore not possible to make a full assessment of the implications of the development with regard to the surface water drainage of the site with regard to Policy 9: Developer contributions and SG Developer Contributions 3: Water and waste water drainage infrastructure of the Aberdeenshire Local Development Plan, 2012.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were:- Policy 3: Development in the Countryside and SG Rural Development 1: Housing and Business Development in the Countryside; Policy 8: Layout, Siting and Design of New Development and SG LSD2: Layout,

Siting and Design of New Development and SG LSD11: Carbon Neutrality in New Development; Policy 9: Developer Contributions and SG Developer Contributions 1: Developer Contributions, SG Developer Contributions 2: Access to New Development and SG Developer Contributions 3: Water and Waste Water Drainage Infrastructure. Other material considerations were: Planning Advice: 6-2012 – Implementation of Policy SG LSD2: Layout, Siting and Design of New Development and Planning Advice – 13/2012 – Housing and Business Development in the Countryside and Greenbelt.

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure. The Local Review Body were in agreement that they had sufficient information before them and proceeded to determine the Notice of Review.

The Local Review Body agreed that the main determining issue for the Notice of Review as presented before them was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the countryside.

During discussion the Local Review Body took cognisance of the fact that permission had previously been granted in January 2012 (which has now expired) for a replacement house on the site of the existing buildings, however for farm operational reasons and to provide some separation from the other agricultural buildings, the revised house position had been chosen to provide more privacy for the replacement house. It would also allow a separate access for farm traffic and a larger central yard area to be formed. The Local Review Body referred to the Report of Handling which had accepted that the previous structural report had confirmed that both buildings were in a poor condition and in principle they could be replaced. The previous bat survey had also concluded that there was no evidence of any bats roosting in the buildings.

The Local Review Body then discussed the requirement of Policy 3 and SG RD1 and the justification which states that no restrictions are placed on the size of replacement of existing buildings, or of the footprint that such a building should occupy, provided the development is on the same site (but not necessarily the same footprint) and the design is appropriate to the location. If proposals require any measure of undeveloped land outwith the curtilage, this may be considered on its merits.

When taking the above guidance into account the majority of the LRB did not agree with the Appointed Officer's assessment that the proposed replacement house required to be sited closer to the existing site. The LRB pointed to the fact that the council had previously allowed proposals of this type elsewhere and also noted that the proposed application site boundary included the site of the existing building/bothy. The majority of the LRB therefore agreed that the proposal was an appropriate response to the relevant policy advice pertaining to layout, siting and design and that it also facilitates more efficient access and servicing arrangements for the farm all in accordance with Policy 3 and SG RD1 of the ALDP.

One member of the LRB took a slightly different view and considered the proposal to be contrary to the terms of Policy 3 and SG RD1 as the proposed site was not on a site that had previously been developed and was beyond the recognised curtilage of the farm. However the LRB member agreed that proposed siting for the replacement house would be advantageous as it would provide a clear distinction between the house and the farm. This meant that although he took the view that it did not conform to policy he nevertheless took the view that this important material consideration was of such weight that it over-rode the policy and that permission should be granted.

In terms of the 2nd reason for refusal the LRB noted the self-certification information on surface water drainage (pages 692-707 of the agenda papers) that had been submitted to the Appointed Officer after the delegated report had been sent to the 3 local councillors, but before

the decision to refuse had been issued. The results appeared to be satisfactory and also conform to the requirements of Policy 9 and SG Developer Contributions 3 of the ALDP.

After due consideration, the Local Review Body **agreed** to reverse the determination reviewed by it and GRANT Full Planning Permission subject to appropriate conditions which the Planning Adviser to the Local Review Body would DRAFT and then circulate to the Local Review Body for approval and they should include:-

- (1) Standard Planning Conditions, including access improvement, water and waste water drainage infrastructure provision, carbon neutral design; and
- (2) A condition to ensure that both the cottage and shed (redundant buildings) should be demolished prior to occupation of the new dwellinghouse.

11. LRB 274 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR INSTALLATION OF MODULAR UNIT FOR RETAIL USE AT UNIT 6, CASTLE STREET, CASTLEPARK INDUSTRIAL ESTATE, ELLON – REFERENCE: F/APP/2014/4081

Local Review Body: Councillors S W Pratt (Chair), P W Bellarby, R Cassie, F C P Hood and P K Johnston.

There had been circulated a Notice of Review and supporting documents by the applicant, which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for the Installation of a Modular Unit for Retail use at Unit 6, Castle Street, Castlepark Industrial Estate, Ellon – Reference: F/APP/2014/4081.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested further written submissions and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that no valid representations had been received during the consultation period.

Further to consultations undertaken it was reported that Environmental Health had no objection to the proposal but had commented that the premises required to be registered under Article 6 of the EC Regulation 852/2004 and comply with the Food Safety Act 1990; Property Services had not responded during the consultation period prior to determination and the Roads Development Service had no comment to make other than there was sufficient parking already provided within the site.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The operation of a retail unit from this industrial site would not relate to the character and use of the site as existing, as such this cannot be considered to conform to Aberdeenshire Local Development Plan Policies 8: Layout, Siting and Design of New Development, along with Supplementary Guidance LSD2: Layout, Siting and Design of New Development or Policy 14: Safeguarding of Resources and Areas of Search and associated SG Safeguarding 5: Safeguarding Employment Land.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were:- Policy 1: Business Development and SG Bus 1: Development of Business Land and SG Bus 5: Development in the Energetica

Framework Area; Policy 2: Town Centres and Retailing and SG Retail 1: Town Centres and Retailing; Policy 8: Layout, Siting and Design of New Development and SG LSD2: Layout, Siting and Design of New Development and Policy 14: Safeguarding of Resources and Areas of Search and SG Safeguarding 5: Safeguarding Employment Land. Other material considerations were: Planning Advice – 5/2012: Energetica Placemaking.

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure.

During discussion, the Local Review Body referred to Page 3 of the Applicant's Notice of Review which had suggested that there were other retail units operating within Castlepark and as such the decision by the Appointed Officer to refuse Full Planning Permission was not a fair and equitable decision. The Local Review Body noted that the applicant had failed to provide any supporting evidence on those units and as such, the Local Review Body agreed that they could not determine the Notice of Review until that information had been provided.

Once that information had been received all parties should be afforded the opportunity to comment on that submission prior to presenting the Notice of Review to a future Local Review Body meeting for determination.

The Local Review Body agreed that they would like to follow further procedure by way of seeking additional information, namely:-

- (1) To request that the applicant provide information on other retail units which are currently trading within Castle Park and evidence of this; and
- (2) To request that Planning Service provide information on consents for Class 1 retail units at Castlepark, the type of units and their trading hours.

After due consideration, the Local Review Body **agreed** to DEFER consideration of the Notice of Review to allow them to follow further procedure, namely:-

- (3) To request that the applicant provide information on other retail units which are currently trading within Castle Park and evidence of this; and
- (4) To request that Planning Service provide information on consents for Class 1 retail units at Castlepark, the type of units and their trading hours.

12. LRB 277 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR REPLACEMENT WINDOW AND DOOR AT CAOL ILA, 3 MAIN TERRACE, MUCHALLS, NEWTONHILL – REFERENCE: KM/APP/2014/4087

Local Review Body: Councillors S W Pratt (Chair), P W Bellarby, R Cassie, F C P Hood and P K Johnston.

There had been submitted a Notice of Review and supporting documents by the agent which sought a review of the decision by the Appointed Officer to Refuse Full Planning Permission for a Replacement Window and Door at Caol Ila, 3 Main Terrace, Muchalls, Newtonhill – Reference: KM/APP/2014/4087.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested a site inspection and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that no valid representations had been received and no consultations undertaken during consideration of the planning application.

The Local Review Body then considered the Appointed Officer's primary reasons for refusal, namely:-

- (1) The proposal does not meet with the criteria of Policy 13: Protecting, improving and conserving the historic environment or the associated supplementary guidance SG Historic Environment 2: Conservation of the Aberdeenshire Local Development Plan 2012 or the aims of the guidance as set out in Scottish Historic Environment Policy (SHEP) pertaining to the development, within Conservation Areas. The proposed uPVC replacement units, coupled with the loss of the existing timber units will result in a loss of character and visual interest to the property, the terrace of properties as a whole and would set an unwelcome precedent undermining the aims of the wider Conservation Area.

The Local Review Body considered that the relevant policies as contained within the Aberdeenshire Local Development Plan (2012) were: - Policy 13: Protecting, Improving and Conserving the Historic Environment and SG Historic Environment 2: Conservation. Other material considerations were: Scottish Historic Environment Policy (SHEP) and Scottish Planning Policy 23: Planning and Historic Environment.

The Chair asked the Local Review Body to consider whether there was sufficient information before them in order for it to consider the review without further procedure. The Local Review Body were in agreement that they had sufficient information before them and proceeded to determine the Notice of Review.

The Local Review Body agreed that the main determining for the Notice of Review as presented before them was the appropriateness of the replacement windows in terms of the character and appearance of the building and the impact of the development on the character of the Muchalls Conservation Area.

During discussion, the Local Review Body referred to the grounds of appeal submitted by the agent which had argued that the planning service had approved the windows and doors except for those which were on the gable end of the property however, he took the view that the gable end of the property could not easily be seen from the street and the visibility was obscured by existing vegetation on the boundary to the property. The Local Review Body did not support that argument as the vegetation would not be considered a permanent feature.

The Local Review Body then having considered all of the information before them took the view that the Appointed Officer had through pre application discussions endeavoured to provide a satisfactory compromise for the applicant in so far as the planning service would support an application for uPVC windows only to the rear and right hand side of the property but the front elevation (street facing) and left hand side elevation replacement windows should be timber. The Local Review Body took the view that timber windows could be considered sustainable, cost effective and efficient and that would allow the applicant to retain the character and appearance of the property and the Muchalls conservation area.

The Local Review Body agreed that there was an opportunity for the applicant to revisit the design that could allow an amended proposal to be submitted in accordance with ALDP Policy 13 and SG HE2 and also Scottish Historic Environment Policy (SHEP). However on the basis of the current proposals, the LRB agreed with the Appointed Officer's determination that the proposal was contrary to ALDP Policy 13 and SG Historic Environment 2.

After due consideration, the Local Review Body **agreed** to dismiss the Notice of Review and Uphold the Appointed Officer's Decision to REFUSE Full Planning Permission.