

Aberdeenshire Council Local Review Body

Reference LRB 274 F/APP/2014/4081

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Unit 6, Castle Street, Castlepark Industrial Estate, Ellon
- Application for review by Thistle Catering against the decision by an appointed officer
- Application reference F/APP/2014/4081 for full planning permission for installation of modular unit for retail use (in retrospect) refused by decision notice dated 18 February 2015
- Application drawings: Site Location Plan@1/1000 scale; Elevations and Floor Plan @ 1/50 scale; Photographs of Modular Building Elevations.
- No site inspection took place

Date of Decision: 18 June, 2015

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.

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 May, 2015. The LRB was attended by Councillors S W Pratt (Chair), P W Bellarby, R Cassie and F C P Hood.
- 1.3 At the previous meeting on 24 April, 2015 the LRB had been shown projected plans and photographs by the Planning Adviser and these had shown the application site and its relationship to the surrounding area. The LRB had subsequently deferred consideration of the case at the meeting held on 24 April, 2015 when it requested additional information from the Planning Service on the nature of the authorised uses surrounding the site and the agent's response to those further submissions was also included within the agenda papers.

- 1.4 Having now received the requested additional information the LRB agreed that there was now sufficient information before it in order to consider the proposal and that no further information was required.

2.0 Proposal

- 2.1 The application site is located within the Castlepark industrial estate on the eastern side of Ellon.
- 2.2 Full planning permission is sought retrospectively for the siting of a single storey modular unit within the yard space at Unit 6, Castlepark Industrial Estate, Castle Street, Ellon. Unit 6 comprises an industrial unit including adjacent yard space; the site is under the ownership of Aberdeenshire Council. The applicant seeks permission to use the modular building as a retail unit for the sale of chilled and frozen meals.
- 2.3 The application site measures approximately 103m² and is surrounded by several types of industrial unit. Unit 6 overlooks car parking space shared by the neighbouring industrial properties.
- 2.4 In February 2013 full planning permission for a change of use from an industrial unit to kitchen and outside catering unit (for the current applicant) was granted subject to conditions at Formatine Area Committee (APP/2012/3446).

3.0 Reasoning

- 3.1 The main determining issues in this review was whether the proposal was in accordance with the development plan policy and supplementary guidance criteria contained within the Aberdeenshire Local Development Plan in respect of the principle of a retail facility within an industrial estate and the impact of the proposed development on neighbouring industrial units.
- 3.2 The LRB agreed that the Planning Officer had identified the relevant Aberdeenshire Local Development Plan 2012 policies and these were as follows:
- Policy 1: Business Development and Supplementary Guidance Bus 1: Development of business land and Supplementary Guidance Bus5: Development in the Energetica Framework Area;
- Policy 2: Retailing and Town Centres and Supplementary Guidance Retail 1: Town Centres and Retailing;
- Policy 8: Layout, Siting and Design of New Development and Supplementary Guidance LSD2: Layout, Siting and Design of New Development; and
- Policy 14: Safeguarding Resources and Supplementary Guidance Safeguarding 5: Safeguarding employment land.

- 3.3 At the meeting on 24 April, 2015 the LRB gave consideration as to whether a site inspection was required but agreed that this was unnecessary in light of the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Advisers' presentation and series of photographs.
- 3.4 The LRB had noted that no representations had been received and no objections had been received within any of the consultation responses.
- 3.5 During their deliberations the LRB focused its attention on the single reason for refusal of the application as well as the additional information in the form of the map (page 43) and schedule (page 44) of other uses in the vicinity of Unit 6 that had been received from the Planning Service.
- 3.6 In this case the LRB unanimously agreed with the assessment of the Appointed Officer contained in the Report of Handling. In particular it was noted (from page 816 of the agenda papers) that the previous permission to allow the change the use of the industrial unit to enable food preparation for outside catering had been supported on the proviso that no members of the public visit the site and that there would be no sales direct to the public or collection of any sales at the premises.
- 3.7 The LRB therefore agreed that this was an unsuitable location for this ancillary retail use and that the applicant's suggestion (contained within the further response on page 47) that consideration be given to a temporary 1 year consent was also deemed to be inappropriate in this instance.
- 3.8 In the circumstances, and in the absence of any over-riding other material considerations, the LRB resolved to uphold the decision of the Appointed Officer, thereby refusing Full Planning Permission for the following reason.

4.0 Reason for refusal

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 Safeguarding5: Safeguarding employment land.

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.