

APPEAL DECISION (LRB)
Appeal Reference
LRB373
Planning Reference
G/APP/2016/2534
Planning Proposal
Full Planning Permission for the erection of dwellinghouse and detached garage at East Torryleith, Newmachar.
Summary of Decision
<p>The Local Review Body (LRB) agreed with the decision made by the Planning Service to refuse Full Planning Permission and therefore the appeal was dismissed.</p> <p>The main determining issue in the review was whether or not the proposal complied with criteria set out in the Aberdeenshire Local Development Plan 2017, specifically new development in the countryside within the Aberdeen Housing Market Area. The Planning Service recommended the refusal of the application, which was upheld through consultation with Local Ward Members, for the reason that the proposed dwelling was not considered to accord with Policy 3: Development in the Countryside and SG RD1: Housing and Business Development in the Countryside of the Aberdeenshire Local Development Plan 2012.</p> <p>The Planning Service considered that the erection of a dwelling on the site did not meet any of the policy requirements and no material considerations were provided by the applicant to change this view. Incidentally the Planning Service did not consider that the site had previously been developed and therefore was not considered brownfield.</p> <p>The LRB noted that since the determination of the application, the Aberdeenshire Local Development Plan had been superseded by the Aberdeenshire Local Development Plan 2017. The LRB considered the main issue to be is the compliance with Policy R2 – Housing and employment development in the countryside. This was used to address the acceptability in principle of developing a dwelling on the site. The LRB noted that Policy R2 is similar in its wording from the now superseded Policy 3 from the ALDP 2012.</p> <p>All members of the LRB were of the view that the red line development boundary had been drawn to suit and resulted in the application site covering a larger area of land which extended onto a greenfield site and outwith the footprint and curtilage of the former bothy building and beyond</p>

what would reasonably be regarded as being the same site.

In this case the LRB considered that it was clear from the Applicants submissions and the assessment contained in the Appointed Officers 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.

Policy Issues

Policy R2 – Housing and employment development in the countryside has not been adhered to in this case.

Additional Points

None

Actions

No actions required given no breach of planning has taken place.

Note Decision

Refuse Full Planning Permission

Other

None

Aberdeenshire Council Local Review Body

Reference LRB 373 G/APP/2016/2534

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: East Torryleith, Newmachar
- Application for review by Mr & Mrs G Smith c/o Ryden against the decision by an appointed officer
- Application reference G/APP/2016/2534 for full planning permission for the erection of a house and garage refused by decision notice dated 30 December 2016
- Application drawings: Site Location Plan @ 1/2500 scale (drawing no: 460-LP A); Proposed Site Plan @ 1:200 scale (drawing no: 460- SP A); Existing Bothy @ 1/100 scale (drawing no: 460-20); Proposed Site Sections @ 1/200 scale (drawing no: 460 08A); Proposed Plan and Elevations of House @ 1/50 scale (drawing no: 460-03A) and Proposed Double Garage @ 1/50 scale (drawing no: 460-04A).
- No site inspection took place

Date of Decision: 10 May, 2017

Decision

The LRB agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision subject to the planning policy reference being amended to reflect that contained within the adopted Aberdeenshire Local Development Plan 2017.

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 28 April 2017. The LRB was attended by Councillors S W Pratt (Chair), P W Bellarby, R Cassie, C R McKail, C Shand, and M Stewart.

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 Notice of Review and that no further information or site inspection was required.

2.0 Proposal

2.1 This proposal seeks full planning permission for the erection of dwellinghouse and detached garage on land at East Torryleith, Newmachar.

2.2 The site is located within a rural setting, set approximately 850 metres north of Newmachar and is accessed by a private access track off the north side of the A947 public road. There are existing dwellings, Woodlea, Treewells and Torr-lea on the entrance to the private access track. The site is predominantly an open field with an area of garden ground associated with East Torryleith and a small bothy building. East Torryleith is located directly to the east with agricultural land surrounding the other sides of the site. The access shall be taken from the existing private road located to the south of the site. The site gradually slopes upward from south to north.

2.3 The proposal comprises the erection of a L-shaped single storey detached dwelling finished in natural stone and dry harled walls, grey Welsh slate, aluminium windows and doors stained in mahogany or dark brown and aluminium gutters and downpipes with the front elevation facing south.

2.4 The garage is located to the north of the proposed dwellinghouse. The garage would measure 7.8 metres by 6.95 metres. It would be finished with cream dash render, double roller garage door; aluminium rainwater goods and timber door.

2.5 The proposed enclosure for the dwelling and its associated curtilage includes hawthorn bushes on the west boundary, with the north and south boundaries finished in paddock fencing.

2.6 The dwellinghouse would be served by a connection to the public water supply and foul drainage would be provided by a private treatment plant and soakaway. Surface water would also be disposed of by a soak-away.

2.7 Although there was no previous planning history in respect of this site, Section 5 of the Report of Handling outlined the previous history of planning applications on adjacent land to the south and west including two applications that involved the erection of a dwellinghouse both of

which had been refused permission (APP/2015/2511) and (APP/2012/0501).

- 2.8 The application was supported by a Planning Supporting Statement, a medical note explaining a range of health conditions suffered by the applicant and a drainage certificate.

3.0 Reasoning

- 3.1 The main determining issues 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.

- 3.2 In his presentation to the Local Review Body, the Planning Adviser reminded the members of the fact that on 17 April 2017, the Aberdeenshire Local Development Plan 2012 had been replaced by the adopted Aberdeenshire Local Development Plan 2017. As such the ALDP 2017 now forms the basis for decision-making even though the original decision notice refers to the now superseded 2012 plan.

- 3.3 The LRB therefore agreed that the relevant policies contained in the adopted ALDP 2017 were as follows:

Policy R2 – Housing and employment development in the countryside;

Policy P1 - Layout, Siting and Design;

Policy RD1 – Providing suitable services; and

Policy RD2 – Developer's obligations.

- 3.4 During discussion on the principle of the development the LRB focused their attention on the relevant development plan policy (RD2 from the ALDP 2017) and Planning Advice 1/2016 – Housing and Business Development in the Countryside. Policy R2 is similar in its wording from the now superseded Policy 3 from the ALDP 2012 and confirms that the council will *'restrict development proposals in the countryside area outwith Aberdeen greenbelt and coastal zone to small scale development that would involve the refurbishment or replacement, on the same site, of an existing house or disused building.'*

- 3.5 While having some sympathy with the case put forward by the applicant (including the supporting medical information), the LRB agreed that they had to consider the case before them solely on its planning merits.

- 3.6 All members of the LRB were of the view that the red line development boundary had been drawn to suit and resulted in the application site covering a larger area of land which extended onto a greenfield site and outwith the footprint and curtilage of the former bothy building and beyond what would reasonably be regarded as being the same site. The

application site boundary had been drawn in such a way that it bore no relationship to the existing bothy building and the proposed house was too distant from it and would not be sited within the defined curtilage of the former bothy building.

- 3.7 In this case the LRB considered that it was clear from the Applicants submissions and the assessment contained in the Appointed Officers 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.
- 3.8 In the circumstances, and in the absence of any over-riding material considerations, the LRB resolved to uphold the decision of the Appointed Officer subject to the planning policy reference being amended to reflect that contained within the adopted Aberdeenshire Local Development Plan 2017.

4.0 Reason for refusal

- 1 The proposed development is contrary to Policy R2: Housing and employment development in the countryside, as contained in the Aberdeenshire Local Development Plan 2017 as the applicants have failed to demonstrate that the proposed dwellinghouse is sufficiently well related to the existing building as stipulated by the above policy requirements. While the policy allows some flexibility in both the scale and position of the proposed dwelling, it is clear that it must be on the same site as the redundant building. The use of undeveloped land has not been sufficiently justified in this case.



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.