

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

ALFORD COMMUNITY CAMPUS, ALFORD, WEDNESDAY 19 APRIL, 2017

Present: Councillors S W Pratt (Chair), P W Bellarby, R Cassie and F C P Hood

Officers: Planning Adviser (Mark Myles), Senior Solicitor – Governance (Fiona Stewart) and Senior Committee Officer (Frances Brown).

1. DECLARATION OF MEMBERS' INTERESTS

In respect of declaration of members' interests as required by the Code of Conduct for members no declarations of members' interests were intimated.

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:-

- (1) 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.

RECONVENED REVIEWS

3. LRB 366 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE OF LAND FROM AGRICULTURAL TO STORAGE AND DISTRIBUTION – BUILDER'S YARD (RETROSPECTIVE) AT ACG CONTRACTS LTD, BANDLEY, ALFORD, AB33 8HD – REFERENCE: APP/2016/2500

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

Reference was made to the Minute of the Local Review Body meeting of 31 March, 2017 (Item 6), where the Local Review Body agreed to defer consideration of the Notice of Review to allow them 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 Wednesday 19 April, 2016 (prior to the formal meeting) and the Local Review Body then resumed consideration of the Notice of Review which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for Change of Use of Land from Agricultural to Storage and Distribution – Builder's Yard (Retrospective) at ACG Contracts Ltd, Bandley, Alford, AB33 8HD – Reference: APP/2016/2500.

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 31 March, 2017 and a recap of the Appointed Officer's reasons for refusal, namely:-

- (1) The development will result in an adverse amenity impact on neighbouring residents, specifically in terms of noise which cannot be adequately mitigated against or controlled, and the proposal fails to take account of cumulative noise impacts from simultaneous proposals to increase industrial activity on adjacent land. The proposal therefore fails to comply with Policy 8: Layout, Siting and Design of New Development and SG LSD 2: Layout, Siting and Design of New Development of the Aberdeenshire Local Development Plan (2012).
- (2) The erection of a 3m high noise barrier would be out of character and have an adverse effect on the rural character of the surrounding area and therefore fails to comply with 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).
- (3) The erection of a 3m high noise barrier would be out of character and have an adverse effect on the rural on the rural character of the surrounding area and therefore fails to comply with Policy 12: Landscape Conservation and SG Landscape 1: Landscape Character, in so far that the erection of the 3m high noise barrier would have an adverse impact on the landscape character of the Aberdeenshire Local Development Plan (2012).
- (4) Insufficient information has been received to demonstrate that the development is not liable to flood, therefore the proposal has not complied with Policy 8: Layout, Siting and Design of New Development and SG LSD8: Flooding and Erosion of the Aberdeenshire Local Development Plan (2012).
- (5) Insufficient information has been provided to demonstrate that surface water from the development can be satisfactorily dealt with within the site. The application has therefore not complied with Policy 9: Developer Contributions and SG Developer Contributions 3: Water and Waste Water Drainage Infrastructure of the Aberdeenshire Local Development Plan (2012).

The Planning Adviser then advised the Local Review Body that on 17 April, 2017 Aberdeenshire Council had adopted the Aberdeenshire Local Development Plan, 2017 which would now supersede all policies referred to in the Appointed Officer's decision notice and as such the Local Review Body agreed that the relevant policies contained within the Aberdeenshire Local Development Plan, 2017 which they should consider when determining the Notice of Review as presented before them were:-

- Policy R2 – Housing and Employment Development in the Countryside;
- Policy P1 – Layout, Siting and Design;
- Policy E2 – Landscape;
- Policy C4 – Flooding;
- Policy ED1 – Providing Suitable Services; and
- Policy RD2 – Developer's Obligations

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for members 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 issues 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 new business development in the countryside and whether any impact on the character and amenity of the surrounding area would be acceptable.

During discussion the Local Review Body made reference to a number of new matters which had been raised within the Notice of Review submissions, which had been submitted in response to the original reasons for refusal and they agreed that the site inspection had been extremely useful as it had assisted their understanding of the issues which had been raised.

The Local Review Body agreed that the proposal could be considered to be acceptable in principle, as it would comply with Policy R2 – Housing and Employment Development in the Countryside of the Aberdeenshire Local Development Plan, 2017 as the proposal was related to existing use and the requirement to allow for its expansion.

The Local Review Body then agreed with the conclusions of the of the Appointed Officer which had suggested that the proposed extension of the yard area would not significantly increase the visual impact on the rural landscape more than the existing yard and store already do, so the general change of use of the land could also be deemed to be compliant with Policies P1 and E2 of the ALDP 2017.

The Local Review Body were also minded that the proposed additional 3 metre high fencing and planting (acoustic barrier shown on the drawing on page 174 of the agenda papers) would help to mitigate against any potential loss of amenity on the neighbouring residential properties.

The Local Review Body then focused their attention on the outstanding objection which had been submitted by SEPA (page 297 – 300 of the agenda papers) in respect of potential flood risk within the functional flood plain. The Local Review Body took cognisance of the applicant's supporting statement which had indicated that there was ongoing dialogue being undertaken with SEPA to resolve this matter, however, it was noted that no further up to date flood risk assessment or information had been submitted as part of the Notice of Review and there was nothing to suggest that this had been adequately resolved. Having taken that into consideration, the Local Review agreed that they could not support the application until the flood risk issues had been resolved.

The Chair advised the Local Review Body that if they were minded to grant the application when the outstanding objection from SEPA was still in place, then that decision to support the proposed development would have to be referred to Scottish Ministers (under the terms of the Notification of Applications (Scotland) Direction 2009) prior to any decision being issued.

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, subject to planning policy references being amended to reflect the policies contained within the newly adopted Aberdeenshire Local Development Plan, 2017.

4. LRB 367 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR INSTALLATION OF TEST RIG (RETROSPECTIVE) AND CHANGE OF USE OF LAND TO CLASS 5 (INDUSTRIAL) AT ACG CONTRACTS LTD, BANDLEY, ALFORD, AB33 8HD – REFERENCE: APP/2016/2501

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

Reference was made to the Minute of the Local Review Body meeting of 31 March, 2017 (Item 7) where the Local Review Body agreed to defer consideration of the Notice of Review to allow them 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 Wednesday 19 April, 2016 (prior to the formal meeting) and the Local Review Body then resumed consideration of the Notice of Review which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for Installation of Test Rig (Retrospective) and Change of Use of Land to Class 5 (Industrial) at ACG Contracts Ltd, Bandlee, Alford, AB33 8HD – Reference: APP/2016/2501.

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 31 March, 2017 and a recap of the Appointed Officer's reasons for refusal, namely:-

- (1) The development will result in an adverse amenity impact on neighbouring residents, specifically in terms of noise which cannot be adequately mitigated against or controlled, and the proposal fails to take account of cumulative noise impacts from simultaneous proposals to increase industrial activity on adjacent land. The proposal therefore fails to comply with 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).
- (2) Insufficient information has been received to demonstrate that the development is not liable to flood, therefore the proposal has not complied with Policy 8: Layout, Siting and Design of New Development and SG LSD 8: Flooding and Erosion of the Aberdeenshire Local Development Plan (2012).

The Planning Adviser then advised the Local Review Body that on 17 April, 2017 Aberdeenshire Council had adopted the Aberdeenshire Local Development Plan, 2017 which would now supersede all policies referred to in the Appointed Officer's decision notice and as such the Local Review Body agreed that the relevant policies contained within the Aberdeenshire Local Development Plan, 2017 which they should consider when determining the Notice of Review as presented before them were:-

- Policy R2 – Housing and Employment Development in the Countryside;
- Policy P1 – Layout, Siting and Design;
- Policy E2 – Landscape;
- Policy C4 – Flooding;

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for members 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.

During discussion the Local Review Body made reference to a number of new matters which had been raised within the Notice of Review submissions, which had been submitted in response to the original reasons for refusal and they agreed that the site inspection had been extremely useful as it had assisted their understanding of the issues which had been raised.

The Local Review Body agreed that the proposed installation of the test rig could be considered to be acceptable in principle, as it would comply with Policy R2 – Housing and Employment Development in the Countryside of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body then agreed with the conclusions of the of the Appointed Officer which had suggested that the test rig is more of less the same height as the existing building located on the site and it would also be considered to be relative in height to trees within the immediate area. The rig would therefore be considered to respect existing features of the site and conform generally to the setting of the surrounding area in compliance with Policy P1 – Layout, Siting and Design and E2 – Landscape, of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body were also minded that the proposed additional 3 metre high fencing and planting (acoustic barrier shown on the drawing on page 174 of the agenda papers) would help to mitigate against any potential loss of amenity on the neighbouring residential properties.

The Local Review Body agreed that the main determining issues for the Notice of Review as presented before them was whether the proposed 8.8 high test rig structure was appropriate at that location and whether the subsequent impact on the character and amenity of the surrounding area would be acceptable.

The Local Review Body then focused their attention on the outstanding objection which had been submitted by SEPA (page 540 - 543 of the agenda papers) in respect of potential flood risk within the functional flood plain. The Local Review Body took cognisance of the applicant's supporting statement which had indicated that there was ongoing dialogue being undertaken with SEPA to resolve this matter, however, it was noted that no further up to date flood risk assessment or information had been submitted as part of the Notice of Review and there was nothing to suggest that this had been adequately resolved. Having taken that into consideration, the Local Review agreed that they could not support the application until the flood risk issues had been resolved.

The Chair advised the Local Review Body that if they were minded to grant the application when the outstanding objection from SEPA was still in place, then that decision to support the proposed development would have to be referred to Scottish Ministers (under the terms of the Notification of Applications (Scotland) Direction 2009) prior to any decision being issued.

After due consideration the Local Review Body **agreed** to DISMISS the Notice of Review and Uphold the Appointed Officer's decision in part to Refuse Full Planning Permission in accordance with Reason 2, subject to the planning policy reference being amended to reflect the newly adopted policies within the Aberdeenshire Local Development Plan, 2017.

5. LRB 368 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE OF YARD AND BUILDING FROM CLASS 6 (STORAGE & DISTRIBUTION) TO CLASS 5 (GENERAL INDUSTRIAL) (RETROSPECTIVE) AT ACG CONTRACTS LTD, BANDLEY, ALFORD, AB33 8HD – REFERENCE: APP/2016/2502

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

Reference was made to the Minute of the Local Review Body meeting of 31 March, 2017 (Item 8) where the Local Review Body agreed to defer consideration of the Notice of Review to allow them 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 Wednesday 19 April, 2016 (prior to the formal meeting) and the Local Review Body then resumed consideration of the Notice of Review which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for Change of Use of Yard and Building from Class 6 (Storage & Distribution) to

Class 5 (General Industrial) (Retrospective) at ACG Contracts Ltd, Bandleby, Alford, AB33 8HD
– Reference: APP/2016/2502.

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 31 March, 2017 and a recap of the Appointed Officer's reasons for refusal, namely:-

- (1) The development would result in an adverse amenity impact on neighbouring residents, specifically in terms of noise which cannot be adequately mitigated against or controlled, and the proposal fails to take account of cumulative noise impacts from simultaneous proposal to increase industrial activity on adjacent land. The proposal therefore fails to comply with 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).
- (2) The erection of a 3m high noise barrier would be out of character and have an adverse affect on the rural character of the surrounding area and therefore fails to comply with 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).
- (3) The erection of a 3m high noise barrier would be out of character and have an adverse affect on the rural character of the surrounding area and therefore fails to comply with Policy 12: Landscape Conservation and SG Landscape 1: Landscape Character, in so far that the erection of the 3m high noise barrier would have an adverse impact on the landscape character of the Aberdeenshire Local Development Plan (2012).

The Planning Adviser then advised the Local Review Body that on 17 April, 2017 Aberdeenshire Council had adopted the Aberdeenshire Local Development Plan, 2017 which would now supersede all policies referred to in the Appointed Officer's decision notice and as such the Local Review Body agreed that the relevant policies contained within the Aberdeenshire Local Development Plan, 2017 which they should consider when determining the Notice of Review as presented before them were:-

- Policy R2 – Housing and Employment Development in the Countryside;
- Policy P1 – Layout, Siting and Design;
- Policy P4 – Hazardous and potentially polluting developments and contaminated land; and
- Policy E2 - Landscape;

The Chair then asked the Local Review Body to consider whether there was now sufficient information before them in order for members 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 issues for the Notice of Review as presented before them was whether the proposed use of land is appropriate in the location and whether the subsequent impact on the character and amenity of the surrounding area would be acceptable.

During discussion the Local Review Body made reference to a number of new matters which had been raised within the Notice of Review submissions, which had been submitted in response to the original reasons for refusal and they agreed that the site inspection had been extremely useful as it had assisted their understanding of those issues which had been raised.

The Local Review Body agreed the proposed change of use of part of the building and yard area could be considered to be acceptable in principle in terms of Policy R2 – Housing and Employment Development in the Countryside of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body agreed with the conclusions of the Appointed Officer which had suggested that no external changes had been proposed to the building and that the fencing which had been erected along the northern and western boundaries to segregate the site from the adjacent business was suitable for the site and as such the proposal was in compliance with Policies P1 – Layout, Siting and Design and E2 - Landscape of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body were also minded that the proposed additional 3 metre high fencing and planting which had been proposed (acoustic barrier shown on the revised drawing (ref: 301/10C) on page 693 of the agenda papers) would be necessary to help mitigate against any potential loss of amenity on the neighbouring residential properties. The repositioning of the noise control barrier away from the southern and eastern boundaries as shown on the revised drawing was also considered to address the concerns that had been originally raised by the Appointed Officer and as such the Local Review Body did not consider that the installation of that barrier would result in an adverse impact on the amenity of the adjacent residential properties or impact on their current daylight. In addition, due to the relationship of the proposed noise barrier measures to the existing building and site boundaries, the Local Review Body did not consider that the 3 m high fencing and landscaping would have any adverse impact on the surrounding landscape.

Having taken cognisance of the fact that the Local Review Body had agreed that the reasons for refusal had in their view been mitigated and there were no flood risk issues as had been presented in the other tandem cases which were presented before them prior to this application, they took the view that retrospective planning permission should be granted subject to appropriate conditions which should be linked to the conditions that had been imposed on the previous consents for the wider site (APP/2003/1520 & APP/2010/2357) and also conditions relating to the control of noise and the requirement for the additional noise barrier and landscaping to be installed.

After due consideration the Local Review Body **agreed** to UPHOLD the Notice of Review and reverse the Appointed Officer's decision and Grant Full Planning Permission, subject to appropriate conditions which should include conditions relating to the control of noise and the requirement for the additional noise barrier and landscaping to be installed.

