



APPEAL DECISION
LRB
Appeal Reference
LRB409
Planning Reference
APP/2017/1975
Planning Proposal
Erection of 3 Dwellinghouses: Non Compliance with Condition 2 of Planning Permission in Principle Ref. APP/2016/0611 at Brownhills, Newmachar
Summary of Decision
<p>The Local Review Body (LRB) agrees with the officer's determination of the application and refuses planning permission in accordance with the Appointed Officer's decision.</p> <p>The condition is as follows:</p> <p><i>No works in connection with the development hereby approved shall commence unless the existing buildings on the site have been demolished in their entirety and all down takings not intended for reuse in the proposed development have been removed from the site'.</i></p> <p><i>The reason for the condition is 'The development has been approved as a replacement for the existing buildings on the site'.</i></p> <p>The discussion centred on the capacity of the site to accommodate an additional two dwellinghouses (in the converted building) which would have effectively split the site with multiple applications and allowed the erection of up to 5 dwellinghouses on the site, which would exceed the limit for small-scale development.</p> <p>In conclusion the LRB determined that the site was not exceptionally large or difficult to develop and that the applicant had decided not to look at a comprehensive redevelopment of the site. Therefore, condition no. 2 was considered necessary and as there were no planning policy reasons or changes in circumstance that would justify its removal.</p>



Policy Issues
None, continued support for treatment of farm complexes as a single site with maximum capacity of three new dwellinghouses.
Additional Points
None
Actions
Note Decision



Aberdeenshire Council Local Review Body

Reference LRB 409 APP/2017/1975

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Land at Brownhills, Newmachar
- Application for review by Mr Rob Ingram c/o Suller & Clark against the decision by an appointed officer
- Application reference APP/2017/1975 for non-compliance with condition no.2 on planning permission in principle (ref: APP/2016/0611) for the erection of 3 dwellinghouses granted approval by decision notice dated 12 January 2017.
- Application drawings: Site Location Plan @ 1/10000 (drawing no: 0313/09-SLP Rev A) and Site Plan @ 1/200 scale (drawing no: 0313/09-20 Rev E).
- No site inspection took place.

Date of Decision: 24 April, 2018

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Planning Permission to remove condition No.2 from Planning Permission in Principle (APP/2016/0611) 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 23 March 2018. The LRB was attended by Councillors P K Johnston (Chair), J Hutchison, A Ross, M Roy and I Sutherland.
- 1.3 The LRB was shown projected plans and photographs by the Planning Adviser. These showed the application site and its relationship to the surroundings.
- 1.4 The LRB agreed that there was sufficient information before it to consider the application and that no further information or site inspection was required.

2.0 Proposal

2.1 The Notice of Review seeks planning permission to remove condition No. 2 attached to the grant of Planning Permission in Principle dated 12 January 2017, namely: -

'(2). No works in connection with the development hereby approved shall commence unless the existing buildings on the site have been demolished in their entirety and all down takings not intended for reuse in the proposed development have been removed from the site'.

The reason for the condition is 'The development has been approved as a replacement for the existing buildings on the site'.

2.2 The condition is included as one of twelve conditions that are attached to the grant of planning permission in principle for the erection of 3 dwellinghouses on the site.

2.3 The site lies approximately 210m to the south of Newmachar to the immediate west of Brownhills farmhouse. The site itself comprises a traditional steading and bothy in a poor condition; with two further outbuildings within the site to the east. The site is bound by a combination of stone walls and post and wire fencing. The total area of the site is approximately 0.6ha.

2.4 Following on from the planning permission in principle for the erection of 3 dwellinghouses (APP/2016/0611), the council had subsequently approved full planning permission for the conversion of the steading to form 2 dwellinghouses and ancillary accommodation in December 2017 (APP/2017/0481).

2.5 A previous Planning Permission in Principle (PPP) application to erect 5 dwellinghouses on the site (APP/2015/1724) had been withdrawn in August 2015.

3.0 Reasoning

3.1 The main determining issue in this review related to whether there were any circumstances which would justify the removal of condition no.2 from the planning permission in principle.

3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policy which is as follows:

Policy R2: Housing and employment development elsewhere in the countryside.

3.3 In support of the Notice of Review the agent had contended that the planning history of the site demonstrates that the Planning Service have accepted that the 0.6 ha comprised the curtilage of this development. Even allowing for the conversion of the traditional vernacular buildings at the road frontage, this would still leave approximately 0.3 ha of the curtilage undeveloped and in their

view this area is capable of accommodating a further 3 units, without detriment to the character or amenity of the area. Examples had also been presented where developments of a similar (or larger) scale had been approved, or are under consideration, in Aberdeenshire, and where the development had exceeded the 3 unit limit which is the definition of small scale development in the countryside as set out in the ALDP.

- 3.4 During discussion the LRB noted that the approval of permission to convert parts of the former steading buildings on the front part of the site into 2 dwellinghouses, meant that the removal of condition no.2 from the earlier PPP would allow up to 5 dwellinghouses to be developed on the site.
- 3.5 Although one member of the LRB gave consideration to the fact that as the vernacular buildings on the site could now be safeguarded, support could be given to the proposal, however the remaining members of the LRB all agreed that Policy R2 does not support the subdivision of sites to allow multiple developments of up to 3 units unless it can be demonstrated without doubt that the proposal replicates the density and scale of the most recent land use.
- 3.6 This proposal to remove condition no.2 from PPP (APP/2016/0611) and the proposal for a further two dwellinghouses through conversion (APP/2017/0481) would reflect multiple applications over time for one area which is considered to be a single site rather than two separate sites. The LRB noted that the site was not exceptionally large or difficult to develop and that the applicant had decided not to look at a comprehensive redevelopment of the site when Policy R2 only provides support to small scale development in the countryside i.e. up to 3 dwellings and where proposals for over 3 dwellings should be taken forward through a bid in the Local Development Plan process.
- 3.7 Since the time of the original PPP approval in January 2017, the ALDP 2017 had been adopted, but the LRB noted that the criteria set out in Policy R2 of ALDP are broadly similar to the reason for approval of the original application, and there had been no fundamental policy changes since the adoption of the ALDP in April 2017 that would alter the LRB's view that condition no.2 is required, due to the application being granted on the basis of replacement buildings.
- 3.8 In conclusion the LRB agreed that condition no. 2 was necessary and as there were no planning policy reasons or changes in circumstance that would justify its removal from the planning permission in principle (APP/2016/0611), they agreed to dismiss the Notice of Review for the following reason.

4.0 Reason for Refusal

- (1) There are no circumstances which would justify the removal of Condition 2 and the condition is required due to the application being granted on the basis of replacement buildings.



Geraldine Fraser
Acting 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 21 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