

Aberdeenshire

COUNCIL



Infrastructure Services

Marr Area Committee Report 22 May 2018

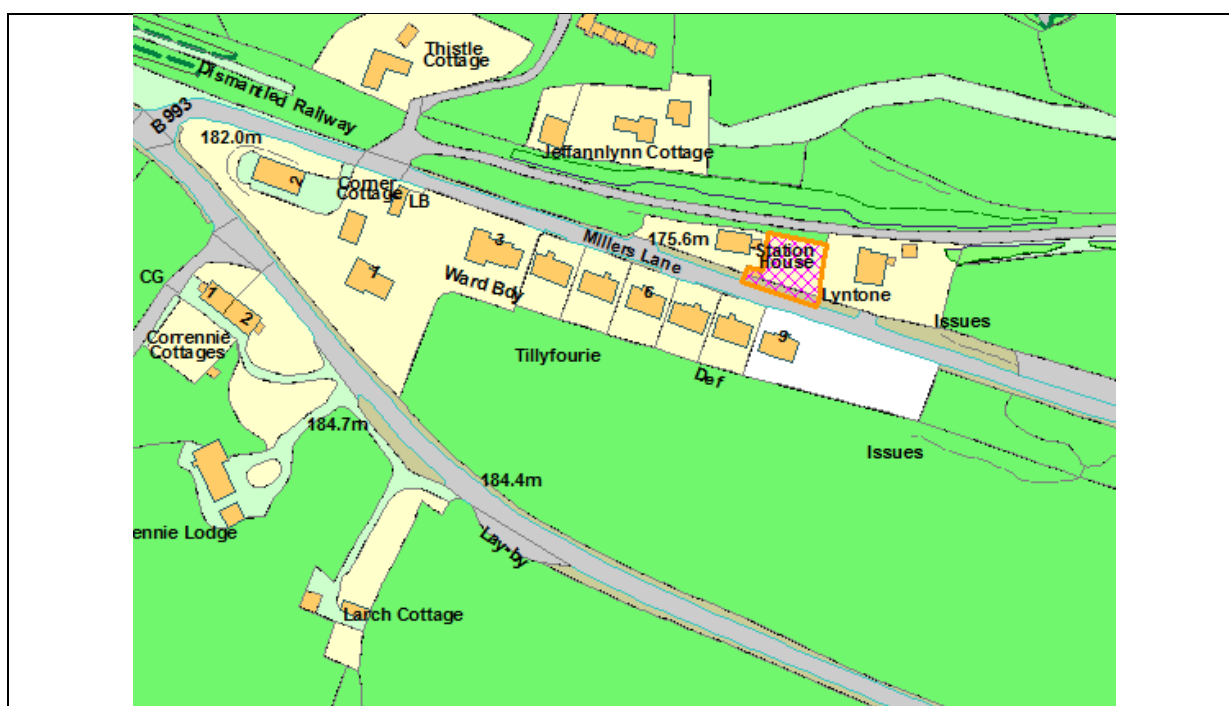
Reference No: APP/2018/0290

Full Planning Permission for Erection of Dwellinghouse and Sub Division of Feu and Formation of Access at Land East of Station House, Tillyfourie, Aberdeenshire

Applicant: Mr M Hepburn, Station House, Tillyfourie, Inverurie, AB51 7SN

Agent: Annie Kenyon Architects Ltd, South Lediken, Inch, AB52 6SH

Grid Ref: E:364595 N:812317
 Ward No. and Name: W14 - Huntly, Strathbogie and Howe of Alford
 Application Type: Full Planning Permission
 Representations: 0
 Consultations: 6
 Relevant Proposals Map: Aberdeenshire Local Development Plan
 Designations: Aberdeen Housing Market Area
 Complies with: Yes
 Development Plans:
 Main Recommendation: Refuse



NOT TO SCALE

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1. Reason for Report

1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

- Councillor John Latham – Suggests further discussion at Area Committee in relation to Policy R2.
- Councillor Moira Ingleby – The site's history merits further consideration by the Area Committee.

1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

2.1 Full planning permission is sought for the erection of a dwellinghouse, sub division of feu and formation of access at land east of Station House, Tillyfourie.

2.2 The site is located immediately north of the B993 in Tillyfourie. The area of land is approximately 500m² and currently forms the garden ground to Station House in Tillyfourie. The site is located to the east of the existing single storey dwellinghouse, which sits on a plateau raised approximately 1.5 metres above the surface of the B993, located to the front (south) of the property. The site is also bordered to the east by another single storey property, Lyntone. An old railway line runs along the northern border of the site, which provides access to another dwelling and a woodland plantation. On the opposite side (south) of the B993, there are 6 detached 1.5 storey new builds, which are characterised by dormer windows on the front elevations and granite brick porch finishes. All properties overlook the B993 and have sizeable front and rear gardens.

2.3 The site slopes from north to south down towards the B993, which runs along the site's southern boundary. Southern and northern boundaries are treated by a combination of 1 metre high hedging and fencing, with the western boundary treated by a combination of 1 metre high stone walling and mature hedging. The eastern boundary is bound by a 1m high timber fence and a few modest sized trees.

History

2.4 APP/2014/2521 - Erection of Dwellinghouse and Sub Division of Feu and Formation of Access – Refused. The proposal was reused as although the proposed use of the site was considered acceptable in principle, the proposed dwellinghouse's footprint would be too large in relation to the size of the application site, resulting in overdevelopment meaning an adequate level of

residential amenity could not be afforded to its prospective occupants. Furthermore, the proposed design, by virtue of its form, massing and height would not respect the appearance and character of the surrounding area.

- 2.5 LRB 259 APP/2014/2521 - Appeal to Local Review Body (LRB), December 2014 - dismissed. In concluding to dismiss the appeal, the LRB did note that the original 'reason for refusal' was effectively split into two parts, the first part relating to 'overdevelopment' of the site. Members of the LRB, on balance, agreed that they could not support this part of the reason to refuse the application given the Appointed Officer had not provided sufficient justification in their Report of Handling to justify this view. However the LRB did not feel the lack of amenity space was a significant concern.
- 2.6 Following a repeat application for the same proposal, which was again refused then appealed; LRB 310 APP/2015/2246 - Appeal to Local Review Body (LRB) - January 2016 – dismissed. Members of the LRB, on balance, agreed that they could not support this application for the following reasons:
1. The proposed layout of the development would not visually accord with the existing pattern of development, in particular plot ratios and the built form of surrounding properties in the immediate vicinity; and
 2. By virtue of its orientation and distance set back from the mutual boundary, the proposed window in bedroom 3 at first floor level directly overlooking the private garden ground belonging to the adjacent house Lyntone, will give rise to an undue impact on the private amenity afforded to the residents of Lyntone.
- 2.7 APP/2016/0846 - Erection of Dwellinghouse – Declined to determine. Agreed to decline to determine due to two previous applications being refused and dismissed within the last 2 years.
- 2.8 APP/2017/1497 - Erection of Dwellinghouse and Sub Division of Feu and Formation of Access – Refused. The application was refused as the proposal did not accord with the existing pattern of development and the level of development would result in insufficient amenity ground for perspective residents
- 2.9 ENQ/2017/1932 - Erection of Dwellinghouse, Sub-Division of Feu and Formation of Access – pre-application advice was sought and the applicant was informed that the revised proposals is something the Planning Service could support in terms of design and scale, given that the house is smaller and allows for more garden ground. In addition, the change of house type (from previous proposals) was considered to sit better alongside Station House. The proposed construction materials were considered appropriate for the site and surrounding area.

Proposal

- 2.10 This proposal seeks the erection of a dwellinghouse, sub division of feu and formation of access. The proposed dwellinghouse is a one and a half storey, 2 bedroom property with a total footprint of 113m². The building measures 15 metres by 7 metres with a ridge height of 7.3 metres. A small porch area, with

a footprint of approximately 8m² will be located on the front (south elevation) of the property. In addition to the porch, the south elevation will include a double window and French doors on the ground floor, and two dormer windows and a triple velux window on the upper floor. The rear (north elevation) has 3 windows at ground floor level and three velux style windows on the roofspace. Both the east and west elevations are similar in design with three windows on each. External finishes would include rendered walls, slate roof and timber painted windows. The porch will also include a slate roof, with timber clad walls and timber windows and a drystone basecourse. The drystone basecourse continues along the south elevation to the left of the porch.

- 2.11 The applicant is proposing to connect to the public water supply network and private drainage arrangements will be made. A new access is proposed for the south of the site and the proposals include parking spaces for two cars.

Supporting information

- 2.12 **Design Statement** (completed by Annie Kenyon Architects, dated 2018) – the statement provides an appraisal of the site, design options considered, elevations and external finishes. The Statement considers three design options which show different layouts for the proposed dwelling. The third option, option 'C' was put forward for ENQ/2017/1932 and is ultimately the design that the applicant has submitted for this application.
- 2.13 **Site Assessment & Drainage Report** (completed by S.A. McGregor, dated January 2018) - carries out percolation and infiltration testing to assess the suitability of the underground strata for the discharge of foul and surface waters from the development.

3. Representations

- 3.1 No valid letters of representation have been received.

4. Consultations

Internal

- 4.1 **Business Services (Developer Obligations)** has commented that no contributions are required in this instance.
- 4.2 **Infrastructure Services (Contaminated Land)** has commented that due to past and current activities at this site, the ground is potentially contaminated. An informative to this effect will be added to any subsequent consent.
- 4.3 **Infrastructure Services (Environment Team)** were consulted due to the identification of Red Squirrel and Red Kite in the vicinity of the proposed development. However, the Environment Team are satisfied that the site is currently garden ground and therefore not suitable for either species. Thus, the proposal is acceptable in relation to protected species.

- 4.4 **Infrastructure Services (Flood Risk and Coast Protection)** has no comment to make on the proposals.
- 4.5 **Infrastructure Services (Roads Development)** does not object to the application subject to conditions on the gradient and paving of the driveway, parking, visibility splays and turning area.

External

- 4.6 **Scottish Water** has no objection to the proposal.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

5.3 Aberdeenshire Local Development Plan 2017

- Policy R2: Housing and Employment Development Elsewhere in the Countryside
 Policy R1: Special Rural Areas
 Policy P1: Layout, Siting and Design
 Policy P4: Hazardous and Potentially Polluting Development and Contaminated Land
 Policy C1: Using Resources in Buildings
 Policy RD1: Providing Suitable Services
 Policy RD2: Developer Obligations

6. Discussion

- 6.1 Full planning permission is sought for the erection of a dwellinghouse, sub division of feu and formation of access. The main issues to consider in determination of this application are the acceptability in principle of the erection of a dwellinghouse in this location in terms of scale and design and whether the proposal would have an impact on the surrounding rural area.

Principle

- 6.2 Policy R2 Housing and employment development elsewhere in the countryside allows for small scale development that would; involve the refurbishment or replacement of an existing house or disused building; remediation of redundant brownfield land opportunities; small scale growth of settlements (identified settlements as listed in appendix 4); single homes for the retirement succession of a viable farm holding and development proposals in the rural housing market area which involves a small scale addition to an existing cluster or group of at least 5 houses.
- 6.3 R2 also permits development that meets criteria in Policy R1, however in this context the proposal does not meet the requirements of Policy R1 Special rural areas as it is not the extension of an existing building, the development is not for the purposes of agriculture, forestry, horticulture, nature conservation or essential public infrastructure; it is not the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit; it is not for a worker in a primary industry and it is not the replacement of a single non vernacular building on the same site.
- 6.4 This proposal does not meet any of the criteria set out above and as a result, it does not comply with Policy R1 Special rural area. Furthermore, the proposal does not comply with the remaining five criteria above that are required to meet policy R2.
- 6.5 Both the previous application (APP/2017/1497) and the pre-application enquiry (ENQ/2017/1932) were considered under the current Aberdeenshire Local Development Plan 2017. In each instance, the Planning Service assessed the principle of development against policy R2 and the following criteria:

We will also allow development proposals in the rural housing market area (which are classed as 'intermediate' rural areas) if they are small-scale employment proposals, or a small-scale addition to an existing cluster or

group of at least five houses which is of a scale and character that is in keeping with that cluster or group. No more than an additional 20% growth of the cluster, up to a maximum of 2 new homes, will be permitted under this policy during the plan period.

- 6.6 However, these assessments were incorrect, as the application site lies within the Aberdeen Housing Market Area rather than the Rural Housing Market Area, the boundary of which lies just beyond Tillyfourie. As a result, the principle of development cannot in this instance be established as the proposal fails to meet both Policy R2 Housing and Employment Development Elsewhere in the Countryside and Policy R1 Special Rural Areas. The applicant has been advised that this was an error from the Planning Service, which was then carried through by the LRB twice. This is an unusual scenario, such mistakes are uncommon, and sadly began with the original application in 2014 and been compounded ever since. The Planning Service's recent advice on the recent enquiry focussed on the design and layout, which on a site specific basis is now acceptable. However the matter of principle has rightly been identified as non-compliant with policy. The proposal quite simply cannot be supported due to failing to meet the rural housing policies, and regardless of the improvement in design and site density and amenity impacts, the proposal is contrary to the LDP. There is some sympathy for the applicant due to the errors of the past, but this does not provide justification to depart from policy.

Layout, siting and design

- 6.7 Policy P1 layout, siting and design stated that new development must be appropriately designed and in-keeping with the character and setting of the surrounding area. In terms of the latter, the revised design is for a dwellinghouse that will be set back a sufficient distance from the public road, towards the rear of the site and the gable to gable form runs from east to west. The siting and layout relates well to the position of the two existing dwellings on either side of the site.
- 6.8 Whilst the property is one and a half stories, and therefore bigger than the neighbouring single story dwellings, the house has been designed to sit into the slope, which minimises it's massing. In addition, the house will sit slightly forward of the nearest neighbouring property, Station House, resulting in the ridge height of the proposed dwellinghouse sitting lower than Station House. It should also be noted that this design is lower in height than the previously proposed one and three quarter storey property from the last application. Overall, it is the opinion of the Planning Service that this proposal is in keeping with the character and setting of the surrounding area.
- 6.9 The footprint of the proposed dwellinghouse would cover a substantial area of the site, however the proposed dwelling is smaller and takes up less garden ground than previous submissions. One of the underlying reasons for previous refusals was the overdevelopment of the site, and in particular the limited garden ground afforded to prospective residents. The plot ratio is improved since the previous submissions, and coupled with the improved scale and design of dwelling, the proposed design and layout is now, on balance, considered compliant in this regard.

- 6.10 In terms of design, alterations have been made to previous applications to ensure the house better reflects adjacent house designs by utilising a more traditional house design with two dormer windows and a single story porch. With regards to the use of materials, the proposed finishes are a mix of traditional and modern, and are considered appropriate in relation to the neighbouring properties and the surrounding rural area, which itself contains a mix of traditional and modern properties/materials.
- 6.11 Privacy impacts need to be considered with every new development. In this case, privacy impacts need to be considered for the neighbouring properties to the east and west of the site. There is a separation distance of 3.5 metres and 13 metres, respectively, from the west and east elevation to the site boundary, and as such some degree of overlooking is possible. However, any impacts will be minimised due to the presence of mature hedging and trees along each of these boundaries, which is shown to be retained. The plot does remain quite a tight fit for a dwelling, but as outlined above the improvements made in this submission do tip the scales to a point of acceptance.
- 6.12 Overall, the Planning Service are satisfied that this proposal, on balance, meets the criteria set out in Policy P1 layout, siting and design. However, as outlined above, there is an underlying issue of the principle of a dwelling in this location, which does not comply with the LDP.

Access and services

- 6.13 Roads Development are satisfied with the proposed development subject to conditions on the gradient and paving of the driveway, parking, visibility splays and turning area.
- 6.14 The applicant is proposing to connect to the public water supply network and private drainage arrangements will be made. In terms of drainage, Station House and the proposed development will remain under the same ownership and as such a shared treatment system is proposed. This could be an issue when it comes to obtaining a Building Warrant, however for the purposes of a planning application, it is an acceptable solution. The drainage Report submitted alongside the application recommends the replacement and relocation of the existing septic tank to a new high performance package sewage treatment plant to serve both the existing dwelling and the proposed new dwellings. A pre-cast concrete attenuation ring will be installed for surface water disposal.
- 6.15 Overall, the proposal is considered to comply with Policy RD1 Providing suitable services

Other technical considerations

- 6.16 The site has a history of potentially contaminative use and as such, an informative advising that should any contamination of the ground be discovered during the development, the Planning Authority shall be notified immediately.

- 6.17 The Design Statement includes consideration of renewable heating and hot water system that will be supplemented by a wood burning stove. Policy C1 Using resources in buildings stipulates that all developments must be designed to reduce carbon emissions. This matter could be addressed by condition, should the development be consented.
- 6.18 The Developer Obligations team were consulted and have concluded that in this instance no contributions are required.

Conclusion

- 6.19 In conclusion, whilst the proposal could comply with technical policies either through information already provided or by adhering to conditions, the principle of the erection of a new dwellinghouse at the proposed site in Tillyfourie does not comply with Policy R2 Housing and Employment Development Elsewhere in the Countryside and Policy R1 Special Rural Areas of the Aberdeenshire Local Development Plan 2017. The planning history of the site is outlined above, and sadly there are errors in the way previous applications were handled. Whilst the end outcome of the previous applications correctly saw the proposal refused, the actual reasoning and consideration of the principle of development did misinterpret the housing market area, and subsequently applied criteria that was not relevant to the proposal. The site lies within the Aberdeen Housing Market Area, and there is no scope within Policy R2 or R1 for a house on this site. Whilst the siting and design has been improved slightly, to a level that allows acceptance of the proposed design on balance, the principle of development does not comply with the LDP. Therefore, the application is recommended for refusal on this basis.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An Equality Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10. Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

None

10.3 The application is not a Departure from the Local Development Plan or Strategic Development Plan and no departure procedures apply.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

11. Recommendation

11.1 REFUSE Full Planning Permission for the following reasons:-

The proposed dwelling, by virtue of its location with the Aberdeen Housing Market Area, fails to meet any of the stipulated criteria for housing development in the countryside that are detailed in Policy R2 Housing and Employment Development Elsewhere in the Countryside and Policy R1 Special Rural Areas of the Aberdeenshire Local Development Plan 2017.

Stephen Archer
Director of Infrastructure Services

Author of Report: Stephanie McMillan
Report Date: 25 April 2018