

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

WOODHILL HOUSE, ABERDEEN, FRIDAY 29 JUNE, 2018

Present: Councillors F C P Hood (Chair), R Cassie, J Hutchison, Cllr A Ross, P K Johnston and I Sutherland.

Apologies: Councillor P Gibb (for LRB 415).

Officers: Planning Adviser (Mark Myles), and Senior Solicitor (Peter Robertson).

1. DECLARATION OF MEMBERS' INTERESTS.

The Chair asked Members if they had any interests to declare in terms of the Councillors' Code of Conduct.

Councillor Cassie declared an interest in Agenda Item 7, (LRB 419), as the application site was within his ward, and he advised that he would withdraw from proceedings when that review was being considered.

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.

3. MINUTE OF THE LOCAL REVIEW BODY MEETING OF 25 MAY, 2018.

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 25 May 2018, subject to one amendment. Item 5 (1), Page 6, the first sentence, "wold" should be replaced with "would". The Chair agreed that the Minute would be signed once that change had been made.

4. SPREADSHEET HIGHLIGHTING RELEVANT POLICIES FOR EACH REVIEW.

The Local Review Body had before them and **noted** a spreadsheet which listed the policies which would be referred to in consideration of each of the reviews presented before them, as contained within the Aberdeenshire Local Development Plan (2017).

RECONVENED REVIEW

5. LRB 415 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE OF PUBLIC OPEN SPACE TO GARDEN GROUND, ALTERATIONS TO DWELLINGHOUSE AND ERECTION OF DOUBLE GARAGE/STORE AT HILLTOP GARDENS, WESTHILL, AB32 6PN – REFERENCE: APP/2017/2765.

Local Review Body: Councillors F C P Hood (Chair), R Cassie, J Hutchison, P K Johnston and I Sutherland.

Reference was made, to the Minute of the Local Review Body meeting of 25 May, 2018 (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:

- (1) Seeking information from the Planning Service on how they had identified the area of land as “public open space” and how did they come to that conclusion;
- (2) Seeking information from the Planning Service on the error in the Report of Handling, Section 2, where the Appointed Officer had referred to an historic planning permission from 1982, and the Local Review Body sought clarity on whether the decision had been influenced using incorrect information; and
- (3) To undertake an “unaccompanied” site inspection, to the application site. To be arranged once all additional information requested had been received and all parties had been afforded the opportunity to comment on that information.

The Local Review Body acknowledged that the information requested from the Planning Service had been presented on Page 15 – 17 of their agenda packs, along with the agent’s response to that information as presented on Pages 18-24.

It was then reported that the site inspection had taken place on Friday 29 June, 2018 (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 the Change of Use of Public Open Space to Garden Ground, Alterations to a Dwellinghouse and the Erection of a Double Garage/Store at Hilltop Gardens, Westhill, Aberdeenshire, AB32 6PN – Reference: APP/2017/2765.

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 on 27 April, 2018 and a recap of the Appointed Officer’s reasons for refusal, namely:-

- (1) The proposed development was contrary to policy requirements seeking to protect important resources such as public open space and prevent development that impacts on the character and amenity of the area. As such, the proposal is considered contrary to Policy PR1: Protecting important resources and Policy P3: Infill and householder developments within settlements (including home and work proposals) of the Aberdeenshire Local Development Plan 2017.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were:

- Policy P3: Infill and householder developments within settlements (including home and work proposals);

- Policy PR1: Protecting important resources; and
- Policy P1: Layout, siting and design.

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 issue, for the Notice of Review as presented before them, was whether the proposals would result in the loss of public open space, and whether that would have an unacceptable loss of amenity or detrimental impact on the layout and character of the existing development.

The Local Review Body agreed that the site inspection had been extremely useful, as the photographs presented had given an impression that the site was a bit larger than what actually exists. The site inspection had also allowed the Local Review Body to view the general character and layout of other parts of the same development, as well as the backland children's play areas that had been designed for that purpose, and also the recent planning approval (APP/2017/2408) for a boundary fence on a corner site at no. 24 Hilltop Gardens.

During their discussion, the Local Review Body took full account of the reason for refusal as set out in the decision notice, as well as the statement and supporting information provided in support of the Notice of Review from the agent.

The Local Review Body were in general agreement that the proposals would not in their view erode the general character, or adversely impact, on the amenity of the area. The Local Review Body acknowledged that while the existing development was of a reasonable high density, the lack of boundary treatments to the front and side gardens of properties had helped to provide a degree of harmony and it was noted that there were many small pockets of green space throughout the entire development. The Local Review Body also noted that adherence to the title deeds by the owners of the properties had meant that these small pockets of open space contributed to the overall character of the development in terms of its layout, siting and design.

The Local Review Body noted that it was evident that the applicant owned the entire site and had maintained the existing area of amenity space. Whilst the Local Review Body recognised that public open space did not have to be owned by the council, it was also acknowledged that virtually every corner of the development had similar areas of ground that had always been privately owned and contributed to the overall streetscape.

The Local Review Body were minded that the proposed development was reasonable in terms of its design, scale and proposed materials. The small loss of amenity space causing any detriment to existing residents would be very minimal as the proposed double garage would only extend slightly beyond the existing electricity substation but the new driveway and adjacent undeveloped greenspace (grass and tree) would help to maintain the character and general feeling of openness on this corner site.

The Local Review Body then agreed that a specific landscaping condition would be required, and should be added to the approval to ensure that the vegetation, tree and area of grass sited immediately adjacent to the proposed driveway and garage would need to be retained, and that further details of the proposed new planting (mixed shrubs) and hard landscaping (driveway finish) would also be required to ensure that the proposal would not conflict with either Policies P1 and P3 of the Aberdeenshire Local Development Plan, 2017. Additional conditions would also be required to ensure that all finishing materials would match the

existing house and standard Roads Development conditions would be included on the approval.

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.

NEW REVIEWS

6. LRB 419 – NOTICE OF REVIEW AGAINST THE REMOVAL OF CONDITION 8 ON FULL PLANNING PERMISSION FOR FORMATION OF CAMPSITE, ERECTION OF RECEPTION/CAFÉ BUILDING, SHOWER/TOILET BLOCK, SITING OF 5 YURTS, SITING OF RESIDENTIAL CARAVAN AT SITE AT WOODSIDE OF BYTH, WOODSIDE FARM, NEW BYTH – REFERENCE: APP/2017/3054.

Local Review Body: Councillors F C P Hood (Chair), J Hutchison, P K Johnston, A Ross and I Sutherland.

There had been submitted, a Notice of Review, and supporting documents by the agent, which sought a review for the removal of Condition 8 from the granted planning consent for Full Planning Permission for the Formation of a Campsite, Erection of a Reception/Café Building, Shower/Toilet Block, Siting of 5 Yurts, Siting of Residential Caravan at the Site at Woodside of Byth Woodside Farm, New Byth – Reference: APP/2017/3054.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the agent had requested a review of the documents as presented before them and no further procedure. The Planning Adviser then provided the Local Review Body with the background to the applicant's case, along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 5 valid representations (2 in support and 3 objections) had been received, and material issues raised within those letters were:-

In Support

- The proposal would create employment for the area.

Objections

- Drainage issues and impact on neighbouring property (Glenview).
- Concerns over privacy of the neighbouring property.
- Noise and light pollution.
- Impact on other caravan parks, motorhome clubs, holiday parks.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that the proposed development would not engage the Developer Obligations and Affordable Housing policies or associated supplementary planning guidance and as such no contributions would be required; Environmental Health had no objection to the proposal, subject to conditions; Landscape Services did not respond during the consultation period; Waste Management and Scottish Water had no objection to the proposal and Roads Development had no objection to the proposal, subject to conditions.

The Local Review Body then considered Condition No.8 of the granted Planning consent for APP/2017/3054, namely:-

- (8) No caravan, hereby approved, shall be sited within the application site, unless the holiday yurts and the reception/café building hereby approved have been completed, and become operational.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were:

- Policy B3: Tourist Facilities;
- Policy R2: Housing and employment development elsewhere in the countryside;
- Policy H4: Residential Caravans;
- Policy P1: Layout, siting and design;
- Policy E2: Landscape;
- Policy RD1: 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 related to the need for the site, to be completed and operational, prior to the siting of the residential caravan and whether this requirement was reasonable, bearing in mind the six 'tests' contained in Circular 4/1998 – Us of Conditions in Planning Permissions.

The Local Review Body acknowledged that consideration of the Notice of Review related solely to the conditions that had been applied to the planning permission (2017/3054), and as such, the previous planning history was not considered relevant to Notice of Review as presented before them.

During discussion, opposing views were expressed.

Those members who were in support of the removal of Condition 8 from the granted planning consent for APP/2017/3054, took cognisance of the applicant's position, in that the development would be a self-build project; the applicant did not live locally and the applicant would not be in a position to employ assistance to keep costs to a minimum. Those members were minded that it was unreasonable to ask the applicant to comply with condition 8 and as such it should be removed as the residential unit would provide facilities for the applicant on site, during the construction period.

Those members who were in support of removal of Condition No.8 then noted that Condition No.9 would mean that the residential caravan would only be granted a temporary consent until 1 May 2021 (the cessation date). Having considered that condition, they took the view that it was essential for the initial setting up of the business that the applicant be on site 24 hours a day, 7 days a week, therefore, in order to give the applicant a greater period of time to allow for the business to become established, they took the view that Condition No.9 should also be altered to allow for a further 1 year extension of the temporary consent i.e. until 1 May 2022.

Those members who did not support the removal of Condition 8, noted that currently no work had been undertaken to implement the planning permission with no progress having been made with the development, they took the view that Condition No.8 should be retained and Condition No.9 unaltered to ensure that the other parts of the development were implemented prior to the siting of the caravan before accepting the case that had been put forward for the changes.

Councillor Johnston, seconded by Councillor Sutherland, moved to uphold the Notice of Review, thereby, removing Condition 8 from the Granted Planning consent for APP/2017/3054 and amending the wording for Condition 9 to 1 May 2022.

Councillor Hutchison, seconded by Councillor Ross, moved as an amendment to dismiss the Notice of Review, thereby ensuring Condition 8 should remain on the Granted Planning consent for APP/2017/3054.

The members of the Local Review Body then voted:-

For the motion (3) Councillors Hood, Johnston and Sutherland.

For the amendment (2) Councillors Hutchison and Ross.

The motion was carried, and the Local Review Body **agreed** to UPHOLD the Notice of Review and Reverse the Decision reviewed by it and remove Condition No.8 from Granted Planning consent for APP/2017/3054 and to amend the wording for Condition No.9 to allow the temporary caravan to be on site until 2022.

7. LRB 420 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE OF EXISTING DWELLINGHOUSE TO OFFICE; REFURBISHMENT OF EXISTING BUILDINGS; DEMOLITION OF BLOCK OUTBUILDING AND ERECTION OF DWELLINGHOUSE AT BURNHEAD, WESTHILL, ABERDEENSHIRE, AB15 8RA – REFERENCE: APP/2017/2082.

Local Review Body: Councillors F C P Hood (Chair), R Cassie, J Hutchison, P K Johnston, A Ross and I Sutherland.

There had been submitted, a Notice of Review, and supporting documents by the applicants, which sought a review of the Appointed Officer's decision, to Refuse Full Planning Permission, for the Change of Use of Existing Dwellinghouse to Office; Refurbishment of Existing Buildings; Demolition of Block Outbuilding and Erection of Dwellinghouse at Burnhead, Westhill, Aberdeenshire, AB15 8RA – Reference: APP/2017/2082.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicants had requested further written submissions; one or more hearing sessions and a review of the documents as presented before them. The Planning Adviser then provided the Local Review Body with the background to the applicant's case, along with a series of slides and photomontages of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 1 valid representation had been received in support of the proposed development, and the material issue raised within that submission was that the changes proposed could only enhance the current site, and the wider area around it.

Further to consultations undertaken, it was reported that Developer Obligations had advised that the development would not attract Developer Obligations contributions and therefore no

contributions would be required; Archaeology Service had no objection, subject to a photographic survey condition being attached if permission was granted; Contaminated Land had advised that given there was no indication of any farming past use, which may have caused contamination, they had no objection, but would request that an advisory on contamination and asbestos be attached in the likely event that permission was granted; Environmental Health had advised that as the applicant had indicated a connection to the mains water supply, the Service had no objection to the proposal; NESBREC had advised that the land was predominately improved grassland; the Health and Safety Executive had raised no objection; BP Exploration Operating Company had advised that the safety and engineering integrity of the BP Forties pipeline would not be affected by the proposed development and Scottish Water had advised that there was currently sufficient capacity in the Invercarnie Water Treatment Works.

The Local Review Body then considered the Appointed Officer's reasons for refusal, namely:-

(1) The proposal does not comply with Policy R1: Special Rural Areas of the Aberdeenshire Local Development Plan, 2017 as no information has been provided to demonstrate compliance with any of the following criteria:

- The development is an extension to an existing building or an ancillary to the main use;
- The development is for the purposes of agriculture , forestry, horticulture, nature conservation or essential public infrastructure;
- The development is for a recreational use that is compatible with its agricultural or natural setting;
- The development is for the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit;
- The development is for accommodation required for a worker in a primary industry;
- The development identified in the National Planning Framework;
- The development of minerals under Policy R3 and waste facilities under Policy PR3 may;
- For developments under Policy PR2 where they meet an established need and where it can be adequately demonstrated that no alternative location can be found; or
- The development is for the replacement of a single non vernacular building on the same footprint, and for the same use.

(2) The proposal does not comply with Policy P1 Layout, Siting and Design of the Aberdeenshire Local Development Plan 2017, as the layout and scale of the development proposed are deemed to be inappropriate for this Greenbelt location.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were:

- Policy R1: Special Rural Areas;
- Policy P1: Layout, Siting and Design;
- Policy RD1: Providing Suitable Services;
- Policy RD2: Developers' Obligations;
- Policy C1: Using Resources in Buildings.

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 was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the greenbelt.

During discussion, the Local Review Body noted that the application site, was located within the Greenbelt, as identified on Map 4, Appendix 3 (page 97 of the Aberdeenshire Local Development Plan 2017), and as such they took the view that it was clear that Policy R1 on Special Rural Areas was the applicable policy. It was then noted that Policy R2 which related to housing and employment proposals elsewhere in the countryside area, but only outwith the Greenbelt and coastal zone, did not apply for the Notice of Review as presented before them.

The Local Review Body then acknowledged the concerns which had been raised by the Appointed Officer, within the Report of Handling, which had suggested that certain aspects of the proposals were unclear or lacking in detail. There were no plans provided for the upper floor in the existing dwelling; there were no details of the refurbishment of the existing buildings; there was no structural survey of the existing dwelling and no agricultural worker calculation report submitted in support of the croft business.

The Local Review Body also noted the contents of the pre-planning advice which had been given to the applicant in August 2015 (included on pages 220-221 of agenda papers), however, it was acknowledged that the advice given related to policies from the superseded Aberdeenshire Local Development Plan 2012 and as such the policy position had changed. Following the adoption of the Aberdeenshire Local Development Plan 2017 in April 2017, Policy R1: Special Rural Areas could allow for the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit and Policy R1 could also allow for the replacement of a single non-vernacular building on the same footprint, but, it must be for the same use.

Having considered all of the information presented before them, the Local Review Body were unanimous in their view, that the current proposal could not be considered as a replacement dwelling (as the proposal was to remove existing agricultural buildings and erect a new dwellinghouse i.e. it is a different use which would also be on a different and much larger footprint) and as such none of the applicable criteria listed in Policy R1 would provide support towards the principle of the current proposal.

The Local Review Body then agreed with the reasoning that had been given for the 2nd reason for refusal in that the proposed siting of the dwellinghouse was inappropriate as it was not located on the same site as the current buildings it would replace, and that the scale and footprint of the proposed dwelling was significantly larger than the buildings it proposes to replace. It would also be prominent particularly from the south and as such due to its siting and scale the proposal fails to meet the criteria of Policies R1 and P1 of the Aberdeenshire Local Development Plan, 2017.

After due consideration, the Local Review Body (LRB) **agreed** to DISMISS the Notice of Review, and uphold the Appointed Officer's decision, to REFUSE Full Planning Permission for the reasons contained in the decision notice dated 15 February, 2018.