

APPEAL DECISION (LRB)
Appeal Reference
LRB 421
Planning Reference
APP/2017/2785
Planning Proposal
Planning permission in principle for erection of three houses
Summary of Decision
<p>Appeal against refusal of permission, upholding the decision made by the appointed officer.</p> <p>It was clear to the LRB that the proposed site was located adjacent to, but importantly outside the defined settlement boundary of Cruden Bay as defined in the ALDP 2017 and within the Coastal Zone and is therefore required to be assessed under Policy R1 and R2. The LRB considered that whilst the existing site may be currently in residential use, any development to replace the cabin should be of a scale that reflects the existing single building. The LRB were of the view that the erection of 3 houses would have a significant impact on the character of the area compared to the existing small cabin and as such did not comply with the requirements of Policy R1.</p> <p>While Policy R2 would allow for small scale development for the replacement of existing buildings and brownfield opportunities, the LRB did not consider it suitable to replace a single, small building of this scale with 3 houses, as Policy R2 requires development to be of a scale and density that is appropriate to its surroundings and the current proposal fails to comply with these criteria.</p>
Policy Issues
Contrary to Policy R1 Special rural areas and R2 Housing and employment development elsewhere in the countryside.
Additional Points
<p>The agent raised that the Environment Team has not raised any objection to the application but recognised that one of the letters of representation raised potential for a badger sett being located within or close to the site. The LRB considered that the appointed officer has been correct to include reference to the need for a badger survey to be undertaken in accordance with Policy E1 Natural Heritage of the ALDP.</p>

Actions
Note Decision



Aberdeenshire Council Local Review Body

Reference LRB 421 APP/2017/2785

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Captains Cabin, Aulton Road, Cruden Bay.
- Application for review by Mr A Smith c/o Baxter Design Company against the decision by an Appointed Officer.
- Application reference APP/2017/2785 for planning permission in principle for the erection of 3 dwellinghouses refused by decision notice dated 2 March 2018.
- Application drawings: Location Plan @1/2500 scale (drawing no. 16246-P2); Block Plan @ 1/250 scale (drawing no. 16246-P1) and Concept 3D Visual @ nts (drawing no. 16246-P3).
- No site inspection took place.

Date of Decision: 11 September, 2018

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Planning Permission in Principle 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 31 August 2018. The LRB was attended by Councillors F C P Hood (Chair), R Cassie, J Hutchison, P K Johnston, I Sutherland and A Ross..
- 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 was required.

2.0 Proposal

2.1 The proposal seeks planning permission in principle (PPP) to demolish the existing building and erect 3 houses on a site that is located on the southern edge and immediately adjacent to the settlement boundary of Cruden Bay as defined in the Aberdeenshire Local Development Plan 2017 (ADLP). The site is also located within the Coastal Zone as defined in the ALDP (Supplementary Guidance no. 4 – Map No. 19).

2.2 The existing timber cabin has a footprint of approximately 7 metres by 6 metres and is 3.7 metres in height. The cabin is located within an opening within dense gorse bushes. Access to the site is taken via a single track private road, from the Golf Club car park located to the southwest. The private road is used to access 11 existing houses. There is also access to Aulton Road, to the north, however due to the presence of bollards this access is restricted to pedestrians and cyclists only.

2.3 An indicative layout shows a proposal for 3 houses within the site. Each indicative house has a footprint of approximately 9 metres by 16 metres. The indicative layout shows that the proposed 3 houses would be located within the area of gorse bushes, with the area of land that is currently occupied by the cabin being used as a turning area and car parking spaces. The access road into the site would remain.

2.4 In addition, the application was accompanied by a concept drawing for the houses. The proposed concept drawing provides an indication of contemporary designed houses, with flat roofs, glazed frontages and modern materials. The concept includes constructing the houses on stilts, with car parking under and residential accommodation on one floor. The drawing states that most of the gorse and vegetation is to be retained. The applicant proposes to connect to the public infrastructure for this disposal of foul drain and water supply. Surface water is to be treated by Sustainable Urban Drainage System.

2.5 The proposal had been the subject of a pre-application enquiry (2016/2438) in December 2016 and this predated the adoption of the policies contained within ALDP 2017.

2.6 A previous planning application (2006/4193) for Full Planning Permission for the demolition of the existing dwelling house and erection of new dwelling house had been refused by Aberdeenshire Council on 29/07/2008 and subsequently dismissed on appeal by a Scottish Government Reporter in March 2009 (P/PPA/110/789).

2.7 The current proposal had been supported by a revised design statement and the conceptual 3D visual drawing.

3.0 Reasoning

- 3.1 The main determining issues in this review was whether the principle of the proposal was considered to meet with any of the criteria set out in the policies relating to development in the countryside and also within the Coastal Zone, and whether there would be any impact on amenity, natural habitats or on the landscape character of the area.
- 3.2 The LRB agreed that Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policies and these were as follows:
- Policy P1 – Layout, siting and design;
- Policy R1 – Special Rural Areas;
- Policy R2 – Housing and business development elsewhere in the countryside;
- Policy C1 - Using resources in buildings;
- Policy RD1- Providing suitable services;
- Policy RD2 - Developers' obligations;
- Policy E1 - Natural heritage; and
- Policy E2 – Landscape.
- 3.3 The agent had requested that the Review be undertaken based on a site inspection and a hearing session. The LRB gave consideration as to whether a site inspection or hearing would be helpful but agreed that neither were necessary in light of the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Adviser's presentation and series of photographs. The Planning Adviser had also summarised the points raised within the 4 letters of objection that had been received to the planning application.
- 3.4 In response to questions from the LRB, the Planning Adviser confirmed that Cruden Bay was not listed as an Appendix 4 settlement within the ALDP (where proposals located within 200m of a defined Appendix 4 settlement could be supported). In addition, clarification was also provided in terms of the location of the nearby St Olaf Hotel and that in planning terms there was no right to the protection of a view or views. Issues relating to the safeguarding of amenity and privacy and the prevention of overlooking or overshadowing were however matters that could be relevant material planning considerations.

- 3.5 It was clear to the LRB that the proposed site was located adjacent to, but importantly outwith, the defined settlement boundary of Cruden Bay as identified in the ALDP 2017. Whilst it could be argued that the current boundary was a bit of an anomaly, it was a matter that has previously been the subject of consultation and examination through the Local Development Plan process. The LRB also recognised that this could be subject to further consultation or potential alteration as part of any future LDP consultation process.
- 3.6 However as it stands the site was outwith the settlement boundary and accordingly, the principle of the development required to be assessed against Policy R2 - Housing and business development elsewhere in the countryside. It was also noted that this site was located within the Coastal Zone where Policy R1 – Special Rural Areas was applicable and where development must either require a coastal location and the social and economic benefit must outweigh any adverse environmental impact, or it must be the redevelopment of an existing building or within the curtilage of an existing building.
- 3.7 The LRB therefore considered that whilst the existing site may currently be in residential use, any development to replace the cabin should be of a scale that reflects the existing single building. If the proposal had been to replace the current building with a single house, then the policies may have been able to support such a development. However, the LRB were of the view that the erection of 3 houses would have a significant impact on the character of the area compared to the existing small cabin and as such the proposal did not comply with the requirements of Policy R1 of the ALDP.
- 3.8 When examining the other criteria of Policy R2 (as noted at paragraph 3.4 above) Cruden Bay was not defined as one of the small-scale settlements listed under Appendix 4 and no other settlement listed under Appendix 4 was located within 200 m of the proposed site. While Policy R2 would allow for small scale development for the replacement of existing buildings and brownfield opportunities, the LRB did not consider it suitable to replace a single, small building of this scale with 3 houses, as Policy R2 requires development to be of a scale and density that is appropriate to its surroundings and the current proposal fails to comply with these criteria.
- 3.9 The LRB considered the point raised by the agent that the Environment Service had not raised any objections to the application but recognised that one of the letters of representation had raised the potential for a badger sett being located on or close to the site. As such the LRB concluded that the Appointed Officer had been correct to include reference to the need for a badger survey to be undertaken in accordance with Policy E1 Natural Heritage of the ALDP.
- 3.10 In the circumstances, and in the absence of any over-riding other material considerations, the LRB resolved to uphold the decision issued

by the Appointed Officer, thereby refusing Planning Permission in Principle (PPP) for the reasons set out below.

4.0 Reasons for refusal

- (1) The development does not comply with Policy R1 Special rural areas contained in the Aberdeenshire Local Development Plan 2017. The application site is located within the Coastal Zone and whilst as such the redevelopment of an existing building may be permitted, in this instance the applicant seeks permission to redevelop the existing small-scale cabin located within the site with three houses. The development of this site for three houses is considered to have an adverse impact on the character of the area in comparison to the scale of the existing building and as such cannot be supported as it is in conflict with the Aberdeenshire Local Development Plan 2017.
- (2) The development is contrary to Policy E1 Natural Heritage contained in the Aberdeenshire Local Development Plan 2017. Appropriate surveys have not been submitted to the Planning Service to enable an assessment of any impact that the development may have on protected species. As such the proposal fails to demonstrate that it is not in conflict with the Aberdeenshire Local Development Plan 2017.
- (3) The application is contrary to Policy R2 Housing and employment development elsewhere in the countryside, as whilst this policy allows for small scale development for the replacement of existing buildings and brownfield opportunity, it is considered that three houses, as is proposed, is not a suitable proposal to replace a single, small building of this scale. Development must be of a scale and density that is appropriate to its surroundings, the proposal is therefore in conflict with the Aberdeenshire Local Development Plan 2017.



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.