

APPEAL DECISION (LRB)
Appeal Reference
LRB 425
Planning Reference
APP/2018/1053
Planning Proposal
Planning Permission in Principle for Erection of Dwellinghouse
Summary of Decision
<p>Appeal against refusal of permission, upholding the decision made by the appointed officer (subject to the deletion of the third bullet point relating to the proposed dwellinghouse not addressing the public road).</p> <p>During discussion, one member of the LRB considered that as two of the proposed site boundaries adjoined neighbouring property boundaries then there was a degree of connectedness that meant the site could be considered as relating to and forming part of the wider cluster of properties.</p> <p>However, the remaining members of the LRB disagreed and took the view that as the site was located behind an area of mature trees that fronted onto the public road, then the proposed site was visually and physically divorced from the existing cluster due to the barrier created by the mature trees. That the site forms the edge of an agricultural field and the LRB agreed that the site would be clearly visible on approach from the north when exiting from Daviot, giving a visual impression of addressing Daviot as opposed to addressing and forming a recognisable part of the existing cluster.</p> <p>The LRB agreed that the current proposal was detached from the other properties and did not demonstrate a reasonable degree of connectedness to enable it to be supported under the definition provided under Policy R2 of the ALDP 2017.</p>
Policy Issues
Contrary to Policy R2 Housing and employment development in the countryside.
Additional Points
None
Actions
Note Decision

Aberdeenshire Council Local Review Body

Reference LRB 425 APP/2018/1053

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Site to North of Bovaglie, Daviot.
- Application for review by Mr P Sleigh c/o Lippe Architects & Planners against the decision by an Appointed Officer.
- Application reference APP/2018/1053 for planning permission in principle for the erection of a dwellinghouse refused by decision notice dated 17 July 2018.
- Application drawings: Location Plan @ 1/2500 scale (drawing no: 4921/010A); Proposed Part Site Plan @ 1/500 & 1/2000 scales (drawing no: 4921/013B) and Proposed Site & Location Plans @ 1/5000 & 1/250 scales (drawing no: 4921/14A).
- No site inspection took place.

Date of Decision: 9 October, 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, subject to the deletion of the 3rd bullet point, as set out in paragraph 4.0 below.

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 28 September 2018. The LRB was attended by Councillors F C P Hood (Chair), R Cassie, J Hutchison, A Ross 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 was required.

2.0 Proposal

- 2.1 The site is located on the north western side of the back of 'Lethenty' road leading into the village of Daviot, approximately 450m south east of the edge of the village boundary. The proposed site is located to the west of a small wooded area and forms part of an agricultural field. The field, as with much of the surrounding area is classed as Prime Agricultural Land. The site would be accessed via a single access point to the public road at the north end of a wooded area. An amended site plan had been provided which included an additional note to explain how the required visibility splay at the access road junction (2.4 x 90m) would be achieved.
- 2.2 A detailed drainage report and a land classification report had been provided in support of the planning application.
- 2.3 A previous Planning Permission in Principle application for the erection of 3 dwellinghouses (APP/2014/0216) and which partially included the current application site, had been refused by Formartine Area Committee and subsequently dismissed on appeal by a Scottish Government Reporter in October 2014.
- 2.4 The site lies within the defined Rural Housing Market Area (RHMA).

3 Reasoning

- 3.1 The main determining issue in this review was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the countryside.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ADLP) policies (page 50 of the agenda papers) and these were as follows:

Policy R2 – Housing and employment development in the countryside;

Policy P1 - Layout, Siting and Design;

Policy E2 - Landscape;

Policy C1 – Using resources in buildings;

Policy RD1 – Providing suitable services; and

Policy RD2 – Developer's obligations.

- 3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful but agreed that this was unnecessary in light of the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Advisers presentation and series of photographs.
- 3.4 In response to questions from the LRB, the Planning Adviser confirmed that the photographs of the site and the surroundings were up to date as they had been taken the week before the LRB meeting. In addition, the Planning Adviser confirmed that there were 6 existing properties located within the grouping, with the property to the south of the site (Bovaglie) having been granted planning permission on the basis of an identified operational need under application reference (2006/3932). The property known as Mullions which is located to the south east and on the opposite side of the public road, had been approved under application reference (2012/2021) by virtue of forming an appropriate addition to the cohesive group under the terms of the policies contained within the previous Aberdeenshire Local Development Plan 2012. The Planning Adviser therefore confirmed that under the terms of the ALDP 2017, there remains potential capacity for a single unit to be approved as part of the cohesive group within the current development plan period.
- 3.5 The LRB agreed that Policy R2 did allow for consideration to be given to the terms of the cohesive groups/cluster category of the policy but that none of the other criteria listed under Policy R2 had been specifically applied for by the applicant or could be considered applicable in this particular case.
- 3.6 During discussion, one member of the LRB considered that as two of the proposed site boundaries adjoined neighbouring property boundaries then there was a degree of connectedness that meant the site could be considered as relating to and forming part of the wider cluster of properties.
- 3.7 However, the remaining members of the LRB disagreed and took the view that as the site was located behind an area of mature trees that fronted onto the public road, then the proposed site was visually and physically divorced from the existing cluster due to the barrier created by the mature trees. The site forms the edge of an agricultural field and the LRB agreed that the site would be clearly visible on approach from the north when exiting from Daviot. It would therefore give a visual impression of addressing Daviot as opposed to addressing and forming a recognisable part of the existing cluster, due in part to there being no other landscape features or physical enclosures along the northern and western boundaries of the proposed site.
- 3.8 The LRB agreed that not all sites within cohesive groups address a public road and this could be removed from the wording of the reason for refusal that had been set out in the decision notice, but the LRB did

agree that the current proposal was detached from the other properties and did not demonstrate a reasonable degree of connectedness to enable it to be supported under the definition provided under Policy R2 of ALDP.

- 3.9 The LRB were of the view that it was clear from the agent's submissions and the assessment contained in the Appointed Officer's Report of Handling that the principle of the development could not be supported as it failed to comply with the qualifying criteria specified in Policy R2 of the ALDP 2017.
- 3.10 In conclusion and in the absence of any over-riding 'other material considerations', the LRB resolved to uphold the decision issued by the Appointed Officer (subject to the deletion of the third bullet point relating to the proposed dwellinghouse not addressing the public road), thereby refusing Planning Permission in Principle for the reason set out below.

4.0 Reason for refusal

- (1) The principle of development on this site is not acceptable and would be contrary to Policy R2 Housing and employment development of the Aberdeenshire Local Development Plan 2017 as:
- The proposal is not within an existing recognised cluster of 5 or more houses;
 - The proposal is considered to be 'detached' from the existing cluster of houses due to the physical and visual barrier of the existing mature trees and the public road; and
 - It would appear that the proposed site is addressing Daviot more so than the 'cluster' to which the application wishes to attach to.

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.