

## ABERDEENSHIRE COUNCIL

### LOCAL REVIEW BODY

WOODHILL HOUSE, ABERDEEN, FRIDAY 26 OCTOBER, 2018

**Present:** Councillors F C P Hood (Chair), R Cassie, J Hutchison, J Ingram (substituting for I Sutherland), P Gibb (substituting for A Ross) and P K Johnston.

**Apologies:** Councillor A Ross and I Sutherland.

**Officers:** Planning Adviser (Mark Myles), Senior Solicitor (Peter Robertson) and Committee Officer (Frances Brown)

#### 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 Gibb declared an interest in Agenda Item 5, (LRB 427), by virtue of not having been in attendance when that review was previously considered on 28 September, 2018 and not having attended the site inspection. Councillor Gibb intimated that he would withdraw from proceedings when that review was being determined.

Councillor Hood declared an interest in Agenda Item 7, (LRB 429), by virtue of knowing the applicant, who had done some work for him. Councillor Hood intimated that as the interest was substantial, he would withdraw from proceedings when that review was being determined.

Councillor Johnston, as Vice-Chair would Chair the meeting for that particular item.

#### 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 28 SEPTEMBER, 2018.

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 28 September 2018 and the minute was duly signed in public.

#### **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 427 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE FROM OFFICE (CLASS 4) AND EXTENSION TO FORM DWELLINGHOUSE (CLASS 9) & ERECTION OF 2.1M HIGH FENCE AT OFFICE/STORE AT LAND AT 3 GARDEN PLACE, CORNFIELD ROAD, TURRIFF, AB53 4SR – REFERENCE: APP/2018/0854.**

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

Reference was made to the Minute of the Local Review Body meeting of 28 September, 2018 (Item 7), where the Local Review Body agreed to defer consideration of the Notice of Review, to allow them to follow further procedure, by way of requesting sight of all of the paperwork for previous planning applications APP/2013/3128 and APP/2014/1023; to ask the applicant to provide an explanation of why the current application was similar to 2013 rather than the 2014 application; and to undertake and unaccompanied site inspection to the application site, to gain a greater understanding of the issues surrounding the division of the curtilage and the loss of amenity space.

The Local Review Body noted that all of the documents requested, had been circulated, (pages 14-87 of the agenda pack) and the site inspection to the application site and surrounding area had taken place prior to the formal Local Review Body meeting.

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 Change of Use from Office (Class 4) and Extension to Form Dwellinghouse (Class 9) & Erection of a 2.1m High Fence at Office/Store at Land at 3 Garden Place, Cornfield Road, Turriff, AB53 4SR – Reference: APP/2018/0854.

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 of 28 September, 2018 and a recap of the Appointed Officer's reasons for refusal, namely:-

- (1) The proposal is contrary to Policy P3 Infill and householder developments within settlements (including home and work proposals) of the Aberdeenshire Local Development Plan 2017 on the basis that the proposed property would be too small to provide the dwellinghouse with any meaningful amenity space. The proposed property would have an insufficient area of garden ground, of limited functionality due to its shape and layout. The erection of the fence would also impact on the amenity of the existing dwellinghouse at no.3 Garden Place by cutting out light, and reducing the size, area and functionality of its parking provision.
- (2) The proposal is contrary to Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan 2017 on the basis that the proposed dwellinghouse would not be adaptable to future needs. The small size of the property and plot is a constraint to extending the property, or adapting it in future to meet the needs of any prospective occupants.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy P1: Layout, siting and design; Policy P3: Infill and householder developments within settlements (including home and work proposals); Policy RD1: Providing suitable services and Policy RD2: Developers' obligations.

In response to questions raised by the Local Review Body, the Planning Adviser provided some guidance in respect of the permitted development rights, which would be available to the current dwellinghouse in respect of the location and heights of boundary treatments, which could be erected without planning permission. Advice was also provided in respect of the mechanism that could be used to alter the proposed plans, and the extent to which any planning conditions could be applied e.g. to ensure a window was finished in obscure glazing.

The Local Review Body then sought advice from the Legal Advisor relating to the plans presented with the Notice of Review and he confirmed that the Local Review Body should seek to uphold or dismiss the Notice of Review based on the plans that had been presented during the planning application process and which were before the Appointed Officer prior to determination of the planning application.

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 proposed development, could be accommodated, without resulting in an unacceptable loss of amenity or a detrimental impact on the layout, density and character of the area.

During discussion, the Local Review Body were in general agreement that the conversion of the existing building into a single bedroom property (including the small 1m x 4.7m side extension) would not be out of character within the surrounding area, where it was clearly evident that there was already a mix in size, scale and density of development. The Local Review Body also agreed that the extent of the proposed garden ground would not in their view be considered to be out of context for the size and layout of the small property proposed, particularly when it was evident that a number of properties in and around Turriff did not have garden ground areas that would meet with normal standards. In addition, the Local Review Body did not agree with the Appointed Officer's 2<sup>nd</sup> reason for refusal as the proposed single bedroom dwellinghouse would not necessarily have to be adapted in the future, and a condition could be applied to control any future alterations and extensions through the removal of permitted development rights.

The Local Review Body then went onto discuss the key issue for them, which related to the proposed boundary treatment, between the existing and proposed properties. Consideration was given as to whether the proposed fence could be reduced in height, or whether it could be removed completely, so as to provide a single communal area of amenity space. After lengthy discussion, the Local Review Body agreed that the current layout, position and proposed height of the fence (2.1 m) would not be a suitable method of subdivision. The Local Review Body were minded that it would result in poor planning and would have a detrimental impact on the amenity of the existing dwellinghouse at no. 3 Garden Place by cutting out light and reducing the size, area and functionality of its parking provision, which would be contrary to the requirements of Policy P3 of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body therefore agreed with the Appointed Officer's decision in part, and upheld reason 1 for refusal and dismissed reason 2.

After due consideration the Local Review Body **agreed** to DISMISS the Notice of Review and uphold, in part, the Appointed Officer's decision to Refuse Full Planning Permission, for reason 1 as contained within the decision notice issued on 1 June, 2018.

### **NEW REVIEWS**

#### **6. LRB 428 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT LAND TO SOUTH OF LASONA, FORGLEN, TURRIFF, ABERDEENSHIRE – REFERENCE: APP/2018/0722.**

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

There had been submitted, a Notice of Review, and supporting documents by the agent, which sought a review of the Appointed Officer's decision to Refuse Planning Permission in Principle for the Erection of a Dwellinghouse at Land to the South of Lasona, Forglen, Turriff, Aberdeenshire – Reference: APP/2018/0722.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicants 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 1 valid representation had been received which neither supported or objected to the proposed development, however, the representation had asked for consideration to be given to:-

- impact on the rural character and tourism value of the area;
- potential loss of privacy or overshadowing and overlooking of Lasona;
- road safety and additional traffic; and
- impact on an adjacent section of gas pipeline

One further representation was submitted in response to the Notice of Review (as presented on page 139-140 of the agenda pack), and the comments made within that representation reiterated the comments previously made, and which supported the Planning Officer's reasons for refusal of the application.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that contributions towards primary education had been agreed, but that no contribution towards affordable housing would be required; Contaminated Land had stated that there was no indication of any past use of the site which may have caused contamination and as such they had no further comment to make on the application; Roads Development had no objection to the proposed development, subject to conditions, and an informative to be included in the decision notice if approved and Scottish Water had no objection, having commented that there was currently sufficient capacity at the Turriff Water Treatment Works to serve the proposed development with water, however, there was no record of public drainage infrastructure in the vicinity of the site. Scottish Water had advised that the applicant would need to apply separately to them as a consultee, if permission were granted, to connect to the public water supply.

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

- (1) The proposed development is contrary to Policy R2: Housing and Employment Development Elsewhere in the Countryside, as contained in the Aberdeenshire Local Development Plan, 2017 as the proposed dwelling house fails to meet the criteria set out in the policy, in that:-
  - a) It is not a type that would be permissible in the green belt;
  - b) It does not contribute to the growth of a settlement identified in Appendix 4;
  - c) It is not associated with the retirement succession of a viable farm holding;
  - d) It is not for the refurbishment or replacement of an existing or disused building, or remediation of redundant brownfield land opportunities;
  - e) It is not a small scale employment proposal; and
  - f) It is not an appropriate addition to a cluster or group of at least 5 houses.
- (2) The proposed development is contrary to Policy P1: Layout, Siting and Design, as contained in the Aberdeenshire Local Development Plan 2017, in that the siting of the proposed development is deemed to be unacceptable in principle and shall contribute to ribbon development in the area, whereby it shall fail to create well-connected places.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy R2: Housing and Employment Development Elsewhere in the Countryside; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land; Policy C1: Using Resources in Buildings; Policy RD1: Providing Suitable Services and Policy RD2: Developers' 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 was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the countryside as the site was located within the Rural Housing Market Area (RHMA).

The Local Review Body noted that Policy R2 would allow for consideration to be given in terms of the cohesive groups/cluster, however, none of the other criteria listed under Policy R2 had been specifically applied for by the applicant and as such could not be considered as applicable to the Notice of Review.

During discussion, the Local Review Body expressed sympathy for the applicant and for allowing opportunities for that type of development in the rural areas. However, the Local Review Body agreed that the relevant criteria contained within Policy R2 would allow for appropriate opportunities for small scale additions to an existing cluster or group of at least 5 houses to be considered favourably.

The Local Review Body noted that it had been alleged by the applicant, that the dwellinghouse would contribute to a cohesive cluster or group of 5 or more existing dwellinghouses, where no other dwellings have been approved during the current plan period. The Local Review Body acknowledged that argument, however, did not agree with that view, as they were minded that a cluster or grouping would be deemed to consist of at least 5 dwellinghouses that were well connected to one another through a pattern of development, mature landscape features and built form generally and where property boundaries would ideally be well established and would lie adjacent to one another.

When considering the Notice of Review as presented before them, the Local Review Body highlighted that it was clear that there were three existing dwellinghouses which were located in a linear form immediately to the north of the proposed site, and all had common boundaries. There were also four more properties located on either side of the public road approximately 100 metres further to the north, which were separated by agricultural fields and two additional properties located over 90 metres further to the north which again were separated by agricultural fields. Having taken all that information into account, the Local Review Body were in general agreement that there were three separate sporadic clusters located within a dispersed pattern of development, and they took the view that a cohesive grouping of at least 5 dwellinghouses did not exist at that location.

The Local Review Body then expressed some concern, that the proposed site for the new dwellinghouse located to the south of the line of three existing dwellinghouses would contribute to ribbon development along that stretch of the public road, which would not comply with the siting requirements of Policy P1 of the Aberdeenshire Local Development Plan, 2017.

The Local Review Body were minded that it was clear from the agent's submissions and the assessment contained within the Appointed Officer's Report of Handling, that the principle of the development could not be supported as it would fail to comply with the qualifying criteria specified in Policy R2 and P1 of the Aberdeenshire Local Development Plan, 2017.

After due consideration the Local Review Body **agreed** to DISMISS the Notice of Review and uphold the Appointed Officer's decision to Refuse Planning Permission in Principle, for the reasons contained within the decision notice issued on 1 June, 2018.

**7. LRB 429 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR PART CHANGE OF USE OF DWELLINGHOUSE TO OFFICE AND STORAGE AND ALTERATIONS AND EXTENSION TO DRIVEWAY INCLUDING FORMATION OF SECOND ACCESS AT 10 LOCH WAY, KEMNAY, AB51 5QZ – REFERENCE: APP/2018/0734.**

Local Review Body: Councillors: P K Johnston (Chair), R Cassie, J Hutchison, J Ingram and P Gibb.

There had been submitted, a Notice of Review, and supporting documents by the agent, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Part Change of Use of a Dwellinghouse to an Office and Storage, and Alterations and Extension to the Driveway, including the Formation of a Second Access at 10 Loch Way, Kemnay, AB51 5QZ – Reference: APP/2018/0734.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicants had requested to submit further written submissions; a site inspection 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 7 valid representations had been received which were opposed to the proposed development and the material issues raised within those representations were:-

- Increase to traffic;
- Parking;
- Noise;
- Air pollution; and

- Road safety issues.

Four further representations had been submitted in response to the Notice of Review, (including 1 group representation), as presented on pages 191-222 of the agenda pack and the comments made within those representations reiterated the comments previously submitted during the consultation period prior to determination and which had confirmed support for the Planning Officer's reasons for refusal.

It was further reported that the applicant/agent has responded to each of the comments submitted as presented on pages 224-248 of the agenda pack and had argued that the comments were either misleading or untrue.

Further to consultations undertaken, it was reported that Environmental Health had no objection to the application and Roads Development had no objection to the application, subject to relevant conditions being attached to any permission granted.

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

- (1) The proposal does not comply with Policy P3: Infill and householder developments within settlements (including home and work proposals) of the Aberdeenshire Local Development Plan 2017, in that :
  - a) It would have a detrimental impact on the residential amenity of other residential properties located on Loch Way;
  - b) There would be unacceptable impacts through traffic movements; and
  - c) A business of that nature would be unsuitable at that location and would be out of character with that residential street.

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) and Policy RD1: Providing Suitable Services.

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 was whether the part change of use was suited to that particular location, and whether the proposals would have a detrimental impact on neighbouring properties, resulting in an unacceptable loss of residential amenity.

During discussion, the Local Review Body made reference to the specific wording of Policy P3, which did encourage 'working from home' proposals, if they did not cause significant loss of amenity to neighbouring properties through noise, traffic movements or other nuisance, and they did not change the overall character of the properties use as a single dwelling.

The Local Review Body took the view that although the part change of use to accommodate an office within the dwellinghouse, and the garage for commercial storage would not alter the overall character of the properties use as a dwellinghouse, the proposal would introduce a commercial use to a residential street which would result in a higher volume of non-domestic traffic movements (from staff and deliveries) which would have a detrimental impact on the amenity of the neighbouring residential properties.

The Local Review Body acknowledged that there were no mechanisms or controls that could be applied to prevent the business from growing at any point in the future and it was recognised that expansion could also lead to additional traffic movements associated with the business.

The Local Review Body took the view that there would be more appropriate locations for Class 4 businesses to locate to rather than a residential street, therefore, the principle of the development could not be supported as the proposal would in have a detrimental impact to the amenity and character of the residential street and the proposal would be contrary to Policy P3 in the Aberdeenshire Local Development Plan, 2017.

After due consideration the Local Review Body **agreed** to DISMISS the Notice of Review and uphold the Appointed Officer's decision to Refuse Full Planning Permission, for the reasons contained within the decision notice issued on 1 June, 2018.

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