

## ABERDEENSHIRE COUNCIL

### LOCAL REVIEW BODY

**WOODHILL HOUSE, ABERDEEN, FRIDAY 30 NOVEMBER, 2018**

**Present:** Councillors F Hood (Chair), I Davidson (substitute for Cllr P Johnston), J Hutchison, A Ross and I Sutherland.

**Apologies:** Councillor R Cassie and P Johnston.

**Officers:** Planning Adviser (Mark Myles), Principal Solicitor (Lauren Cowie) and Senior Committee Officer (Niall David).

#### **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 Sutherland declared an interest in Agenda Item 6, (LRB 430), by virtue of the application site being located within his ward. Councillor Sutherland intimated that he would withdraw from proceedings, when that review was being determined.

#### **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 26 OCTOBER, 2018.**

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 26 October 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).

## **5. LOCAL REVIEW BODY MEETING DATES, 2019.**

There had been circulated a report, dated 6 November, 2018 by the Director of Business Services which presented a list of proposed meeting dates for Local Review Body meetings during 2019. The report explained that formal meetings and site visit dates would be included in the ward calendar, however, if there was no business to be determined, then those dates would be removed from member's diaries.

Following additional information from the Senior Committee Officer relating to possible clashes with Licensing Board meetings in August and December 2019, the Local Review Body **agreed** to approve the proposed meeting dates for 2019, subject to bringing the meeting forward by one week for the August and December meetings.

### **NEW REVIEWS**

## **6. LRB 430 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR FORMATION OF ACCESS AT KINLOCH MANOR, ST FERGUS, ABERDEENSHIRE, AB42 3EN – REFERENCE: APP/2018/0933.**

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

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 Formation of Access at Kinloch Manor, St Fergus, Aberdeenshire, AB42 3EN – Reference: APP/2018/0933.

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 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 no valid representations had been received during the consultation period.

Further to consultations undertaken, it was reported that Roads Development had commented that as the road was a trunk road, Transport Scotland should provide any comments on the application. Transport Scotland had stated that the application should be refused, on the grounds of road safety, as the existing access that serves the plot and the proposed access was too close to the existing access for it to be safe.

It was reported that a further statement had been received from Transport Scotland during the consultation period for the Notice of Review, and that response as presented on Page 50-53 of the agenda pack had concluded that their recommendation to refuse the application remained the same as aspects relating to visibility had not been addressed.

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

- (1) The proposed access would give direct access onto the A90(T) a short distance from an existing access. Transport Scotland have stated that the proposed access was too close to the existing access for it to be considered acceptable and has objected on road safety grounds. The proposal therefore is not compliant with Policy P1 Layout, Siting and Design, which states that new development should be safe and secure.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy P1: Layout, Siting and Design and Policy R2: Housing and Employment Development Elsewhere in the Countryside.

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 the suitability and safety of the proposed new means of access.

In response to questions raised, the Planning Adviser provided further information about visibility at the existing junction and references to the access further to the north.

During discussion, the Local Review Body took cognisance of the applicant's Notice of Review statement, which had raised concerns over the current access, which was deemed to be very dangerous on the corner and the entrance could get very busy. The applicant had also presented the argument that there were other multiple entrances to properties that were close to existing openings and most houses of that size had their own entrances. In addition, the proposed driveway would not be as steep as the existing access, and would be more beneficial particularly in bad weather.

While the Local Review Body agreed that there could be some merit and benefit to forming a new access, which would meet with the required standards and visibility splay requirements, they also recognised that the existing access would not be closed off and would remain open which would, in their view, lead to the creation of two substandard access situations onto the A90 trunk road.

The Local Review Body then made reference to the objection raised by Transport Scotland which had been submitted on the grounds that there was an existing access which currently serves the house and the proposed access would be too close to the existing access for it to be deemed safe. Transport Scotland had also provided a further detailed response (pages 50-53 of agenda papers) which had provided potential solutions for the applicant should he wish to pursue the matter through an alternative proposal.

The Planning Adviser advised the Local Review Body that if they were minded to uphold the Notice of Review, the application would have to be referred to Scottish Ministers before any decision could be issued due to the outstanding objection raised by Transport Scotland.

The Local Review Body agreed unanimously that the proposed access would in their view be too close to the existing access for it to be deemed safe and would be unacceptable due to the negative implications it would have for road safety contrary to Policy 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 Full Planning Permission for the reasons contained in the decision notice issued on 20 July, 2018.

**7. LRB 431 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE, DOUBLE GARAGE AND WORKSHOP (FOR APPLICANT’S BUSINESS) AT KILLIEBRAE, OLDMELDRUM, ABERDEENSHIRE, AB51 0DQ – REFERENCE: APP/2018/1704.**

Local Review Body: Councillors F Hood (Chair), I Davidson, J Hutchison, A Ross and I Sutherland.

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, Double Garage and Workshop (for Applicant’s Business) at Killiebrae, Oldmeldrum, Aberdeenshire, AB51 0DQ – Reference: APP/2018/1704.

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 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 1 valid representation had been received which was opposed to the proposed development and the material issues raised within that representation were:-

- Why is the house required for a business when already living in a house on the land;
- What is the nature of the business;
- Will this increase traffic on a restricted road;
- What will the noise levels be from the business;
- Concerns that objectors water supply will be hampered wit as it runs down the edge of the application plot;
- Access required for maintenance of objectors property;
- It would be restricted objectors view from kitchen window; and
- Design not in keeping with surrounding area.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that contributions had been agreed towards Meldrum Academy; Environmental Health had requested additional information from the applicant to access noise from the development which could result in undue loss of amenity on surrounding properties and on receipt of that information had no further comment to make and had no objections to the proposed development; Roads Development had no objection to the application, subject to conditions and informatives being attached to any permission and Scottish Water had no objection to the proposal.

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

- (1) The principle of development on this site is not acceptable and would be contrary to Policies R2 Housing and employment development elsewhere in that countryside of the Aberdeenshire Local Development Plan 2017 in that the site is within the Aberdeen Housing Market Area and when considering small scale additions to existing clusters, these only relate to the Rural Housing Market Area only. Further still, it is not recognised that a piece of ‘hardstanding’ constitutes the ‘refurbishment or replacement of a disused building or the remediation of redundant brownfield land.
- (2) The proposed development fails to comply with Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017 in that no drainage calculations

have been provided with the application to demonstrate that the development meets the required standards. A requirement of Policy RD1 Providing suitable services, stipulates that 'appropriate supporting evidence should be provided to support using a private drainage infrastructure'.

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 C1: Using Resources in Buildings; Policy E2: Landscape; 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 issue 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.

In response to questions raised, the Planning Adviser confirmed that the site lies within the Aberdeen Housing Market Area and therefore the application of the cohesive group policy under Policy R2 of the Aberdeenshire Local Development Plan 2017 would not be applicable.

The Local Review Body took cognisance of the applicant's Notice of Review, which had suggested that the proposal would not be contrary to Policy R2, having made reference to the Appointed Officer's Report of Handling, which had stated that the concrete floor slabs and foundation of the former stables was considered to be hardstanding, however, the applicant made reference to the Oxford English Dictionary which would define hardstanding as a surface for parking of vehicles. The applicant highlighted that there was no definition of hardstanding within the Local Development Plan 2017 glossary and they also considered that there was no reason why the drainage calculations could not be a condition of any approval and that would guarantee the proposal would comply with Policy RD1.

During discussion, the Local Review Body were in agreement that there were limited circumstances where support could be given to housing in the countryside within the Aberdeen Housing Market Area.

When considering the Notice of Review as presented before them, the Local Review Body were minded that the proposal would not meet with any of the relevant criteria set out in Policy R2 of the Aberdeenshire Local Development Plan 2017 which would allow for the refurbishment, replacement or extension of existing buildings or the remediation of brownfield land. The Local Review Body took the view that the concrete slab formed the base for a previous stable block on the site and it currently supported a dog kennel and a storage shed and due to the limited size, would bear little relationship to the size and location of any house on the site.

The Local Review were unanimous in their view, that the proposal would not be considered to constitute the refurbishment or replacement of a disused building or the remediation of redundant brownfield land and therefore would fail to comply with Policy R2 of the Aberdeenshire Local Development Plan, 2017.

In addition, the Local Review Body highlighted Policy RD1, providing suitable services, would require developments to be supported by relevant drainage reports or certificates to affirm that the proposed private septic tank and soakaway systems are feasible on any site. Having

taken that into account, the Local Review Body noted the application had not been supported by any relevant justification and whilst such matters could be further controlled by suspensive condition, the Local Review Body agreed that as there was no information before them on that matter, the proposal would also fail to comply with Policy RD1 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 in the decision notice issued on 8 October, 2018.

At the conclusion of the meeting the Chair reported that Mr Mark Myles was in attendance at his last Local Review Body meeting, following his successful appointment as Head of Planning for Bidwells.

The Local Review Body and Officers in attendance wished Mr Myles every success in his new post and commended him for his exemplary work as Planning Adviser to the Local Review Body.