

3. Minute of the Local Review Body Meeting of 29 March, 2019.



## ABERDEENSHIRE COUNCIL

### LOCAL REVIEW BODY

**WOODHILL HOUSE, ABERDEEN, FRIDAY 29 MARCH, 2019**

**Present:** Councillors F Hood (Chair), P Gibb (Substituting for Cllr A Ross), P Johnston, A McKelvie (as substitute for Cllr Hood for LRB 439 and 441) and I Sutherland.

**Apologies:** Councillors R Cassie, J Hutchison and A Ross.

**Officers:** Planners (Matthew Watt – (LRB 435), (James Wheeler – LRB 440 and 441), (Jim Martin – 443) and (Laura Dingwall – LRB 439 and 444), 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 Hood declared an interest in Agenda Item 6, (LRB 439) and Item 8, (LRB 441) by virtue of the application sites being within his ward. Having applied the objective test, he concluded that he would withdraw from proceedings when both reviews were being determined.

Councillor Johnston, as Vice Chair, would chair the meeting for LRB 439 and LRB 441.

#### **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.

#### **OPENING REMARKS BY THE CHAIR**

The Chair, on behalf of members', welcomed the Planning Officers, in attendance, to their first meeting, as Planning Advisers to the Local Review Body.

#### **3. MINUTE OF THE LOCAL REVIEW BODY MEETING OF 22 FEBRUARY 2019.**

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 22 February 2019, subject to one amendment:-

Item 7, LRB 437, Page 13, paragraph six should be amended to read “**The remaining members of** the Local Review Body were in agreement..... The amended 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 435 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT SITE ADJACENT TO BRUNTSMIDDY COTTAGES, TURRIFF, AB53 5PN – REFERENCE: APP/2018/0626.**

Local Review Body: Councillors F Hood (Chair), P Gibb P Johnston and I Sutherland.

Reference was made to the Minute of the Local Review Body meeting of 22 February, 2019 (Item 5), where the Local Review Body had agreed to defer consideration of the Notice of Review, to allow them to follow further procedure, by way of seeking further information from the Environmental Health Service, asking them to provide a professional response to the Noise Impact Assessment which had been presented by the applicant/agent with their Notice of Review and seeking feedback on whether that information would allow them to withdraw their objection to the proposed development.

The Local Review Body noted that all of the information requested had been presented on Page 21-25 of their agenda pack, and the Environmental Health team had responded to advise that the noise from RDM Engineering would not have an impact at the proposed dwellinghouse at Bruntsmiddy Cottages, and as such the objection based on noise impact had been withdrawn. The report did however raise concerns over air quality due to the close proximity of nearby biomass boilers on Bruntsmiddy Cottages and as such they would object on the grounds that emissions from the biomass boilers could result in undue loss of amenity for the occupants of the proposed dwellinghouse.

It was further reported that the applicant/agent had responded to the response from the Environmental Health team, as presented on Page 27 of the agenda pack, and that response had indicated that mitigation had been agreed to address the concerns raised over air quality, with a planning application being submitted Reference APP/2019/0532 for the installation of 1 biomass wood burning boiler, which would replace the existing 2 biomass boilers and which would be a clean burn as used in Aberdeenshire CO2 mitigating establishments.

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 Erection of a Dwellinghouses at a site adjacent to Bruntsmiddy Cottages, Turriff, AB53 5PN – Reference: APP/2018/0626.

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 22 February, 2019 and a recap of the Appointed Officer’s reasons for refusal, namely:-

- (1) The application has been refused under delegated powers, as the applicant has not demonstrated through the submission of a Noise Impact Assessment that the proposed

dwellinghouse will not be affected by the nearby engineering works. This information was requested in the Regulation 24 letter sent on the 20 September 2018 and the information was required within 28 days of this request. Terms set out by Developer Obligations have also not been agreed with the required four months period. The application is not considered to comply with either P1 Layout, Siting and Design or RD2 Developers Obligations from 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 R2: Housing and Employment Development Elsewhere in the Countryside; Policy P1: Layout, Siting and Design; Policy PR1: Protecting Important Resources; Policy E1: Natural Heritage; Policy E2: Landscape; 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 issue for the Notice of Review as presented before them was the principle of the development and whether a dwellinghouse, on that site, would be appropriate or whether it would have a detrimental impact on the amenity and character of the surrounding area.

During discussion, the Local Review Body made reference to the additional information received from the Environmental Health Team, and their confirmation that they had now withdrawn their objection following their assessment of the Noise Impact Assessment submitted by the applicant.

Reference was then made to the previous meeting, where the Planning Adviser had confirmed that the agent, acting on behalf of the applicant, had agreed Developer Obligations on 5 July, 2018 with a contribution towards the replacement of Turriff School and the Environmental Planners had not raised any significant issues on the nature of woodland and its values as they were content that any loss of trees, while regrettable, could be mitigated by replanting.

Having consideration of the additional information received and the Notice of Review, the Local Review Body were satisfied that the reasons for refusal had been addressed, therefore the application could be supported with the addition of standard planning conditions, and conditions to address the Ecological Report as presented on Page 126 of the agenda papers.

After due consideration, the Local Review Body **agreed**, to UPHOLD the Notice of Review and reverse the determination reviewed by it and GRANT Full Planning Permission, subject to standard planning conditions and conditions to address the recommendations of the Ecological Report.

## **NEW REVIEWS**

### **6. LRB 439 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT LAND ADJACENT TO CLOVENSTONE LODGE, KINTORE, ABERDEENSHIRE – REFERENCE: APP/2018/2573.**

Local Review Body: Councillors P Johnston (Chair), P Gibb, A McKelvie 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 Full Planning Permission for the

Erection of a Dwellinghouse at Land Adjacent to Clovenstone Lodge, Kintore, Aberdeenshire – Reference: APP/2018/2573.

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 her presentation by reporting that no valid representations had been received during the consultation period, prior to determination.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that payment in respect of educational contributions would be required and the applicant had agreed to that contribution if the application were approved; Contaminated Land had no comment on the proposal; Environmental Health had withdrawn their initial objection as the applicant had confirmed a public water supply would be utilised, and any consent should be subject to a condition requiring a connection to the public water supply prior to occupation of the development; the Environment Team had confirmed that the area was considered to be woodland and due to its age, was of some habitat benefit and if approved compensatory planting of a similar area occupied by the house and garden would be required; Roads Development had no objection to the proposal, subject to the provision of conditions which would control the parking and access required for the development and the Forestry Commission Scotland had confirmed that the area had been planted under a forestry scheme and was considered to be native woodland and as such compensatory planting would be required for the loss of woodland (0.4 hectares).

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

- (1) The proposal was not considered to be for a worker employed in a primary industry, nor is it considered essential to the operation of the business that a worker resides onsite and therefore, the proposal cannot be supported under the terms of Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017.
- (2) The proposal conflicts with the requirement to protect existing areas of woodland and provide appropriate compensation for both woodland and habitat as required by the terms of Policy RD1: Protecting Important Resources and Policy E1: Natural Heritage, both 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 R2: Housing and employment development elsewhere in the countryside; Policy P1: Layout, siting and design; Policy E1: Natural Heritage; Policy PR1: Protecting Important Resources; Policy C1: Using Resources in Buildings; Policy RD1: Providing Suitable Resources 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.

In response to a question raised about expansion of the business, the Planning Adviser stated that planning permission for 2 lodges had been approved in 2005 as part of permission for 3 lodges. The third application was for a change of house type to semi-detached (2 holiday lets within a single building) but that had not been built yet. No further information on the expansion of the business had formed part of the planning application.

In response to questions raised about the 0.2 hectares of compensatory planting to the north of the site, the Planning Adviser confirmed that it could be dealt with by way of a condition if granted, which could include the protection of trees which could not be felled unless by prior consent of the planning service.

The Local Review Body agreed that the main determining issues for the Notice of Review as presented before them was whether the proposal would comply with the requirements of Policy R2 Housing and employment development, elsewhere in the countryside, and if so, whether the impact on the woodland would be acceptable.

During discussion, opposing views were expressed.

One member of the Local Review Body expressed sympathy for the applicant's position, who was in his mind, just trying to develop a business which would require capital. While there were two properties there at present which generated rental income, and the approval for 2 more, and a third dwellinghouse would allow the business to expand by having workers on site.

Councillor Gibb, moved as a motion to uphold the Notice of Review, and reverse the decision reviewed by them. As there was no seconder for the motion, the motion fell and in terms of the Council's Standing Order 5.2.4, Councillor Gibb requested that his motion, which was not seconded, be recorded in the minute.

The remaining members of the Local Review Body considered Reason 1 and Reason 2 for refusal individually.

When considering Reason 1, the remaining members' of the Local Review Body were minded that the Appointed Officer had identified the correct policy R2, as the proposal was not considered to be for an essential worker employed in a primary industry in the countryside, which it was noted, had been accepted by the applicant. Having considered the applicant's Notice of Review and supporting statement, those members' took the view that the applicant had failed to identify anything material within their submission, which could warrant a departure from that policy and as such, they were minded to uphold Reason 1 for refusal.

Having considered Reason 2, the remaining members' of the Local Review Body were in agreement that Reason 2 could be dealt with by way of a condition placed on the granted planning consent and as such, that reason should be removed from the reason for refusal.

After due consideration, those members who did not support applicant's submission **agreed**, to DISMISS the Notice of Review (in part) and Uphold the Appointed Officer's decision, to Refuse Full Planning Permission for Reason 1, as contained in the Decision Notice issued on 6 December 2018, with the removal of Reason 2.

**7. LRB 440 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT SITE ADJACENT TO DRUMNICOL, MEIKLE WARTLE, INVERURIE – REFERENCE: APP/2018/2662.**

Local Review Body: Councillors F Hood (Chair), P Gibb, P Johnston 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 at a site adjacent to Drumnicol, Meikle Wartle, Inverurie – Reference: APP/2018/2662.

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 (1) one or more hearing sessions

on specific matters; (2) a site inspection to the application site and surrounding area and (3) 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 4 valid representations had been received during the consultation period, which had intimated their support for the proposed development and the material issues raised within those representations were:-

- Improvement to the appearance of the area;
- Located on redundant brownfield land;
- A strong sense of place and well connected;
- Support for local business; and
- The development would fit in with development pattern.

It was reported that two further representations had been submitted, in response to the Notice of Review (as presented on pages 236-240 of the agenda pack), which reiterated their support for the proposed development.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that they would seek a contribution towards an extension to Meldrum Academy and they confirmed that the applicant had agreed the Heads of Terms; Contaminated Land had confirmed that although part of the site had been used for the storage of building materials and associated machinery, there was no evidence of contamination; Flood Risk and Coast Protection had confirmed that they did not object to the proposed development; Roads Development had confirmed that access onto the public road was suitable to accommodate the additional traffic generated by the development, however, the applicant should ensure that visibility to the south was not obstructed by any new boundary treatment at the site and Scottish Water had confirmed 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 siting of a new dwellinghouse in that location fails to meet the criteria of Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017, in that it is not an appropriate addition to an existing cluster or group of at least five houses. Furthermore, the proposal does not comply with any of the other housing in the countryside criteria, in that it would not be appropriate in the greenbelt, involve the refurbishment or replacement of an existing house or disused building, involve remediation of redundant brownfield land opportunities, be an addition to groups of no more than 3 houses within 200m of an identified settlement boundary or involve the retirement succession of a viable farm holding.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy R2: Housing and business 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 C1: Using resources in buildings; Policy C4: Flooding; 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.

Consideration was given to whether a hearing would be beneficial, to allow the Local Review Body to question the planning service on specific points raised by the appellant in their review submission which has not been addressed within the Report of Handling. After consideration, the Local Review Body were in agreement that a hearing would not be necessary.

During discussion, the Local Review Body were in general agreement that an unaccompanied site inspection to the application site and surrounding area would be extremely beneficial, to allow members' to make an informed judgement on the pattern of development within the area and to bottom out the issues raised surrounding connectedness/distances and whether the proposed development would be a suitable addition to an existing cluster of dwellinghouses.

The Local Review Body then agreed that it would also be helpful to get a written response from the Planning Service, which would address the specific points raised in the applicant's supporting statement and in particular a response on the cases referenced in the supporting statement and why those applications had been considered acceptable as an addition to an existing group.

After due consideration, the Local Review Body **agreed** to DEFER consideration of the Notice of Review, to allow them to follow further procedure, by way of:-

- (1) An unaccompanied site inspection to the application site surrounding area;
- (2) Feedback from the planning service on the points raised in the applicant's supporting statement; and
- (3) To request that the Planning Service confirm the maximum number of houses which could be added to the cluster within the current planning period.

**8. LRB 441 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT SITE ADJACENT TO ORACHARDFOLD, UPPER TRACK, NEWMACHAR – REFERENCE: APP/2018/2046.**

Local Review Body: Councillors P Johnston (Chair), P Gibb, A McKelvie 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 at a Site Adjacent to Orachardfold, Upper Track, Newmachar – Reference: APP/2018/2046.

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 2 valid representations had been received during the consultation period, (as presented on Page 348/9 of the agenda pack) which had intimated their support for the proposed development and the material issues raised within those representations were:-

- Agricultural requirement; and
- Reduction in traffic noise.

Further to consultations undertaken, it was reported that Developers' Obligations had confirmed that a developer contributions report had been sent to the agent; Contaminated Land had confirmed that there did not appear to be any issues of concern regarding contamination, and as such, no further information was required; Roads Development had confirmed that they had no objection to the proposed development, subject to conditions; BP had confirmed that the BP Forties Pipeline would not be affected by the proposed development; the Health and Safety Executive had confirmed that it did not advise on safety grounds, against granting of planning permission for the application; INEOS FPS Ltd had confirmed that the safety and engineering integrity of the INEOS FPS Forties Pipeline would not be affected, they had not comment to make on the application; Scottish Water had confirmed that there was currently sufficient capacity in the Invercarnie Water Treatment works and Shell UK Exploration and Production had confirmed that there was no reason why the proposed development and associated construction works would directly affect its pipeline servitude strip or the safety and integrity of the pipeline.

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

- (1) The proposal is not acceptable in principle as it does not comply with Policy R1: Special rural areas of the Aberdeenshire Local Development Plan 2017. Specifically, in sufficient evidence has been provided to demonstrate that the area of farmland directly surrounding the site at Orchardfold would justify an essential farm worker. Furthermore, the proposal does not comply with any other criteria of Policy R1: Special Rural Areas, and therefore cannot be supported.

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 C1: Using Resources in Buildings; Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land; 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.

A number of questions were raised which related to the applicant's farm holding at Orachardfold and the distances between that farm holding to rented land at East Torryleith, Rosehall, Potterton and Belhelvie; what clarification/definition the planning service use when identifying land as 'tenanted' or 'rented'; and why rented land could not be included as part of the labour calculations.

As there were a number of issues which would require further clarification, the Local Review Body were in agreement that they could not proceed to determine the Notice of Review as additional information was required.

After due consideration, 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 feedback from the Planning Service who would be asked to provide clarification/definitions used for 'rented land' and that of a normal agricultural tenancy;
- (2) Seeking feedback from the Planning Service on why 'rented land' cannot be included when considering labour calculations; and
- (3) To ask the applicant/agent to provide details of all rented farm holdings and the geographical spread/distances of those rented holdings from Orachardfold. That could be a plotted map, an itemised of distances or a mixture of both.

**9. LRB 443 - NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AND ERECTION OF 2 HOLIDAY LET ACCOMMODATION (AMENDED SITE BOUNDARY TO WITHDRAWN APPLICATION REFERENCE: APP/2018/1314) AT BEECHFIELD, BRIDGEND TERRACE, TURRIFF, AB53 4ES – REFERENCE: APP/2018/2531.**

Local Review Body: Councillors F Hood (Chair), P Gibb, P Johnston 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 and Erection of 2 Holiday Let Accommodation (Amended Site Boundary to Withdrawn Application Reference: APP/2018/1314) at Beechfield, Bridgend Terrace, Turriff, AB53 4ES – Reference: APP/2018/2531.

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 her presentation by reporting that no valid representations had been received during the consultation period, prior to determination.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that contributions had been agreed towards Education, Sports and Recreation, Health Care, Waste and Recycling; Contaminated Land had stated that access to the site was a long part of the former Turriff-Macduff section of the Great North of Scotland Railway and the adjacent land (to the east) has been used to store machinery/scrap. As there was no indication that those land uses had impacted the main part of the site where the proposed buildings and associated garden ground are to be sited. Flood Risk and Coastal Protection had stated that the holiday let accommodation was situated outwith the floodplain and the changed layout proposed under APP/2018/1314 were welcomed; the Environment Team – Natural Heritage had noted that while "treehouse style lodges" were proposed, there was no indication of what that was, so the Officer had not been able to comment on the potential impact on the trees in the area. It was reported that the applicant had submitted a picture of the style of treehouse in mind along with a bio diversity plan, however, the Environmental Planner could not provide an opinion on the potential impact on trees and concerns were also raised about the impacts the footing would have on the root system of the trees; Roads Development did not object to the proposal, provided a fence between the site and the property named Lyndale was constructed to ensure that no additional dwellings would utilise the existing private track road and planning conditions regarding formation of access, on site car parking, provision of a layby and visibility splays; Scottish Water had not objected to the proposal, but were not able to confirm capacity of the Turriff Waste Water Treatment Works and SEPA had no objection to the development subject to planning conditions that would ensure no development, including land raised takes place on ground below 32.75 metres AOD.

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

- (1) The development does not comply with Policy R2 Housing and Employment Development elsewhere in the countryside contained within the Aberdeenshire Local Development Plan 2017. The house proposed was not located on a brownfield opportunity site, it is not required for a work in a primary industry and would not be an addition to an existing cluster of at least five houses. In addition, Turriff was not a settlement within Appendix 4 of the Aberdeenshire Local Development Plan 2017.

- (2) The development does not comply with PR1 Protecting important resources contained within the Aberdeenshire Local Development Plan 2017 as it cannot be demonstrated that the proposed holiday lets would not have an adverse impact on the existing trees and their route system.

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 P1: Layout, Siting and Design; Policy C1: Using Resources in Buildings; Policy C4: Flooding; 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 were the principle of the development, and the impact that the proposed development would have on the character of the area.

During discussion, the Local Review Body acknowledged that the application site was within the Rural Housing Market Area and while policy R2, could support the development of a small scale business, the application was for Planning Permission in Principle, and having considered the applicant's submission, they were minded there was not enough information submitted to allow the Local Review Body to determine what the employment proposal was, what the justification would be for that proposal or whether the application would comply with the policy criteria. While the Local Review Body would encourage tourism and employment opportunities in rural Aberdeenshire, the application did not involve the refurbishment or replacement, on the same site, of an existing house or disused building, it did not involve the remediation of a redundant brownfield land opportunity and it would not be a small scale addition to an existing group of 5 houses.

Reference was then made to the Policy criteria contained within Policy R1, as the proposed new dwellinghouse was not required to provide accommodation for a worker in a 'primary industry' that would be appropriate to the countryside. It was highlighted that tourism, while encouraged, was not a primary industry. In addition there was a requirement under that policy that there must be no suitable alternative residential accommodation elsewhere in the area and reference was made to residential accommodation which was in the ownership of the applicant and reference to houses available for sale in the Turriff area.

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 7 January, 2019.

**10. LRB 444 - NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT LAND ADJACENT TO MUCHALLS VILLAGE HALL, WALKER DRIVE, MUCHALLS, NEWTOWNHILL – REFERENCE: APP/2018/2331.**

Local Review Body: Councillors F Hood (Chair), P Gibb, P Johnston 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 Full Planning Permission for the

Erection of a Dwellinghouse at Land Adjacent to Muchalls Village Hall, Walker Drive, Muchalls, Newtonhill – Reference: APP/2018/2331.

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 hearing session to allow the applicant to address the Local Review Body on specific matters 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 42 valid representations had been received during the consultation period, which had intimated their objection to the proposed development and the material issues raised within those representations were:-

- Loss of amenity space associated with the village hall;
- Tree report states that trees are to be removed which have no reason to be;
- Previous applications for a house on this have been refused, including an appeal which was dismissed by Scottish Government;
- Felling of healthy trees should not be permitted and trees are likely to be impacted upon during construction and following completion;
- Potential to set a precedent to develop on other amenity space;
- Overshadow and overlook the hall;
- Increase in number of vehicles accessing the junction with the A90 and in the village;
- Development would detract and spoil character of the conservation area by felling a number of trees;
- Too large a house for the conservation area and overdevelopment of the site in an insensitive manner;
- Impact on proposed house due to activities in the village hall;
- Impact on bats and wildlife;
- Fall in demand for housing in the local area;
- Design not in-keeping with surrounding properties;
- Drainage infrastructure may not cope with additional house; and
- No clear plan for replacement trees.

It was reported that ten further representations had been submitted, in response to the Notice of Review (as presented on pages 566-578 of the agenda pack), which had reiterated the concerns raised in their original objections for the proposed development.

It was further reported that the applicant/agent had responded to the ten representations submitted, and which acknowledged that those representations were reiterating their original objections, and the points raised about trees had been addressed in some of the findings of the submitted Tree Report. The applicant/agent were clear that while the appearance of the conservation area would change, the change would maintain the character of the area.

Further to consultations undertaken, it was reported that Developer Obligations had carried out an assessment and had advised that Newtonhill Primary School and Portlethen Academy were currently operating within capacity and the proposed development would not engage the Developer Obligations and Affordable Housing policies or associated supplementary guidance of the Aberdeenshire Local Development Plan 2017 and as such no contributions would be required; Environment, Natural Heritage had been consulted and had reported the tree survey had identified 16 trees, with 14 being within the site. Of those trees 6 would be removed and a further 7 would potentially suffer damage to their roots from the construction of a driveway and services. They had also reported that it would be likely that once developed, other remaining trees on the site would come under pressure. Reference was made to the condition of the existing trees in an exposed coastal location and the fact that their value had increased due to

there being relatively little woodland along that area. It was highlighted that there was no reference to replacement planting in the tree survey submitted, or the arboricultural reports, however replacement trees had been indicated on the site plan (with no details of species given), however, they did indicate that it was difficult to see how trees that would replace those being removed, in terms of species and eventual size at maturity could be provided on the site.

Road Development had no objection to the proposal, subject to conditions relating to the formation of a drop kerb crossing; gradient of the driveway, finish of the first 5m driveway; off street parking; visibility splays and Newtonhill, Muchalls and Cammachmore Community Council had objected to the application as they considered that the proposed site was sensitive in nature; the proposal would have a significant impact on the area and it was considered that the application did not meet the conditions of the Local Development Plan, particularly in relation to the loss of mature trees, but also the position of the house located too close to the Muchalls Village Hall.

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

- (1) The proposal development would result in the loss of six trees, and the proposal fails to demonstrate to the satisfaction of the Planning Authority that the remaining trees would not be at risk from felling in the future through safety and amenity concerns once the dwelling was completed. This site is relatively small, therefore any replacement planting would not likely be able to reach a size which would contribute to or replace the existing tree cover. The loss of further trees at that coastal location would be considered to have a detrimental impact on the character and amenity of the surrounding area, which was also a designated conservation area. The proposal was therefore considered to fail to comply with Policy P3 Infill and householder developments within settlements (including home and work proposals), Policy HE2 Protecting historic and cultural areas and Policy PR1 Protecting important resources 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 HE2: Protecting Important Resources; 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.

In response to questions raised, the Planning Adviser confirmed, that while overshadowing had not been mentioned as a reason for refusal, that had been raised as a concern by the Environment Natural Heritage team, on the grounds that once the dwellinghouse was built, there could be safety concerns related to the health of the existing trees, which may require sick trees to be felled in the future. The applicant/agent would require to seek consent for the removal of those trees through the general protection grant in the conservation area, and that could have a detrimental adverse impact on the area and the residents of Muchalls.

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 the acceptability, in principle, of the proposed development; the potential impact on the character and amenity in the surrounding area and Muchalls Conservation Area; and whether the site could be serviced adequately.

During discussion, the Local Review Body were unanimous in their view that the case centred on the amenity of all the residents of Muchalls. While the planning service were not concerned with the overall design and scale of the proposed dwellinghouse, the Local Review Body did not accord with that view and suggested that the mere fact that healthy trees had to be felled to accommodate the development would suggest that the scale of the house was not appropriate at that location and the possibility of future felling that may be required following completion of the dwellinghouse, due to safety concerns, would in their view have a significant impact on the character of the surrounding area and the wider conservation area.

Reference was made to the Report of Handling which had raised significant concerns for the long term viability of the remaining trees of the tree protection proposals, and while the applicant had identified replacement planting, it was recognised that replacement planting would take many years for trees to reach a suitable height to replace what was currently on site which would lead to a prolonged detrimental impact on the setting of the village hall and the Muchalls Conservation Area.

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 28 November, 2018.

