

3. Minute of the Local Review Body Meeting of 26 April, 2019.

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

WOODHILL HOUSE, ABERDEEN, FRIDAY 26 APRIL, 2019

Present: Councillors P Johnston (Chair), J Hutchison, I Sutherland and A Ross.

Apologies: Councillors R Cassie and F Hood.

Officers: Planners, (Stuart Newlands – LRB 445 and 446), (Elizabeth Tully – LRB 447 and 452), (James Wheater – LRB 448 and 450), (Paul Williamson – LRB 449 and 451), Senior Solicitor (Peter Robertson) and Committee Officer (Frances Brown).

OPENING REMARKS BY THE VICE-CHAIR.

The Vice-Chair, in his capacity as Chair, in Councillor Hood's absence, advised the Committee that Councillor Hood had submitted his apologies due to conflicting commitments, therefore he, as Vice-Chair would Chair the meeting in his absence.

The Chair, on behalf of the Local Review Body, welcomed each of the Planning Officers, in attendance, who would act as Planning Advisers for individual cases.

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 Johnston declared an interest in Agenda Item 5, (LRB 445) by virtue of the application site being within his ward. Having applied the objective test, he concluded that he would withdraw from proceedings when that review were being determined.

The Chair sought nominations to Chair the meeting for LRB 445 in his absence, and Councillor Hutchison, seconded by Councillor Sutherland nominated Councillor Ross.

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 29 MARCH 2019.

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 29 March 2019, 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).

NEW REVIEWS

5. LRB 445 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ALTERATIONS TO DWELLINGHOUSE AT WHITEHORSE, 11 THE SQUARE, TARVES, ABERDEENSHIRE, AB41 7GX – REFERENCE: APP/2018/2090.

Local Review Body: Councillors A Ross (Chair), J Hutchison 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 Alterations to a Dwellinghouse at Whitehorse, 11 the Square, Tarves, Aberdeenshire, AB41 7GX – Reference: APP/2018/2090.

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 disclose the grounds of their case, 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, prior to determination.

Further to consultation undertaken, it was reported that the Historic Environment had determined that the proposed development was not acceptable, and they had stated that the applicant should be instructed to supply a condition survey for the existing timber windows by a competent joiner. They had also advised that the applicant had been advised that the replacement units must match the original windows in terms of design and construction.

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

- (1) The use of UPVC windows is not considered appropriate at that site as it is not a traditional material, and would be visible from the public lane leading from the village square. It was considered that the development would negatively impact the character of the Tarves Conservation Area and not conform to the general principle of conservation area status which is to 'preserve' and 'enhance'. The development was not considered to be compliant with the Aberdeenshire Local Development Plan 2017, particularly Policy HE2 Protecting historic and cultural areas.

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); and Policy HE2: Protecting historic and cultural areas.

In response to a questions raised the Planning Adviser confirmed:-

- (1) that the site lies within the Tarves Conservation Area and all the photographs, as part of the powerpoint presentation, had been taken from within the Conservation Area;
- (2) that the Tarves Conservation Area appraisal and Historic Scotland's technical advice note on replacement windows had not been provided directly to the applicant, however, that would have been a material consideration when the Appointed Officer was determining the application;
- (3) that it would be up to the applicant to provide evidence to demonstrate that uPVC windows would be a more effective form of soundproofing.

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 works within a conservation area.

During discussion the Local Review Body were unanimous in their view that there were limited circumstances where support could be given to works within a conservation area which did not accord with the applicable policy and technical advice, and there was nothing material within the Notice of Review, as presented before them, which could warrant a departure from Policy HE2: Protecting historic and cultural areas for the installation of UPVC windows within the Tarves 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 2 November, 2018.

6. LRB 446 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT SITE AT PIKETILLUM FARM, ELLON, ABERDEENSHIRE – REFERENCE: APP/2018/2264.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland 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 Planning Permission in Principle, for the Erection of a Dwellinghouse at the Site at Piketillum Farm, Ellon, Aberdeenshire – Reference: APP/2018/2264.

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, prior to determination.

Further to consultation undertaken, it was reported that Developer Obligations had confirmed that Ellon Primary and Academy were currently working within capacity, therefore no

contributions would be required; Contaminated Land had confirmed that there was no indication of any past use, which might have caused contamination; Environmental Health had originally objected to the proposed development as full details of the water supply and satisfactory water sample had been taken, however, the applicant had submitted further information and they confirmed that they would remove their objection, subject to a condition for the installation of appropriate water treatment to the water supply as the supply currently did not comply with Private Water Supplies (Scotland) Regulation 2006; and Roads Development had not objected to the proposal, subject to conditions, which should include the installation of access, a layby, visibility splay and a bin store area.

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 existing Nissan hut cannot be replaced on the same site of the existing structure, the proposed development requires entirely greenfield land to be developed, the remediation of the farm as a brownfield opportunity site has commenced under previous planning approvals, and the subdivision of the site would result in a larger development that would exceed what was considered small scale development within the development plan.
- (2) The development is contrary to Policy RD1 Providing suitable services contained in the Aberdeenshire Local Development Plan 2017. The application does not propose any arrangement to deal with surface water in a sustainable manner.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy R2: Housing an employment development elsewhere in the countryside; Policy P1: Layout, siting and design; Policy E1: Natural heritage; Policy E2: Landscape; Policy C1: Using resources in buildings; Policy RD1: Providing suitable services and Policy RD2: Developers' Obligations.

In response to a questions raised by the Local Review Body, the Planning Adviser stated:

- (1) that the existing Nissan hut was currently being used for storage by the applicant and was therefore not considered to be redundant, however, in terms of the original use, (to house animals) it was no longer used for that purpose;
- (2) that he believed that Planning Service could support the application, if the proposed dwellinghouse was on the same site as the Nissan hut, as that would be in compliance with Policy R2;
- (3) that he believed that the existing Nissan hut could not be replaced due to safety reasons, however, the reasons for that had not been stipulated by the planning service.

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.

During discussion, the Local Review Body were in agreement that they could not make assumptions on the information as presented before them, in terms of why the Planning Service could not support a replacement dwellinghouse on the same site as the existing Nissan hut. As such, they were minded that it would be extremely helpful to undertake a site inspection to the application site, to allow them to gain an appreciation as to whether there may be safety issues.

The Local Review Body also agreed that it would also be helpful if the Planning Service could provide an explanation as to why the Nissan hut could not be replaced on the same site, and their reasons for that, and to confirm if the fenced off storage area, was within the curtilage of the original farm.

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) Obtaining additional information from the Planning Service, seeking clarification as to why the proposed dwellinghouse could not be built on the same site as the existing Nissan hut, and the reasons for that;
- (2) Seeking confirmation from the Planning Service on whether the fenced off storage area was within the curtilage of the original farm; and
- (3) An unaccompanied site inspection to the application site and surrounding area.

7. LRB 447 - NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE, INCLUDING FORMATION OF ACCESS AT LAND AT UPPER PARK, DRUMOAK, ABERDEENSHIRE – REFERENCE: APP/2018/2685.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland 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 Erection of a Dwellinghouse and Detached Garage, including Formation of Access at Land at Upper Park, Drumoak, Aberdeenshire – Reference: APP/2018/2685.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant 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 consultation undertaken, it was reported that Developer Obligations had noted that contributions had previously been secured for the erection of a house on the application site under a Section 69 Legal Agreement (Upfront Payment) under planning application Ref: APP/2015/2532 and that payment had been applied to the current application and no additional contributions would be required; and Roads Development had no objection to the application, subject to conditions relating to the finish of the first 5 metres of the driveway; formation of off-street parking and the formation of a refuse bin uplift store area.

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

- (1) The proposed design consists of a number of incoherent elements and as a whole, the building does not exhibit a welcoming visual appeal or respect its setting, and fails to create local identity through a choice of design. The proposed development is therefore considered to be contrary to Policy P1: Layout, siting and design 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 C1: Using resources in buildings; Policy RD1: Providing suitable services and Policy ED2: 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 questions raised by the Local Review Body, the Planning Adviser stated:

- (1) That block cladding was used instead of rendering and would be placed on the front of the house; and
- (2) That the Planning Service could use a range of conditions to ensure that the applicant would be required to submit, for approval, their proposals for materials and finishes which would be in keeping with the area.

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 before them, was the design of the proposed development.

During discussion, the Local Review Body made reference to the photo montages as presented by the Planning Adviser, and the supporting statement to the Notice of Review, which had identified a mixture of designs and finishes for other dwellinghouses in the surrounding area. Having considered that information, the Local Review Body were minded that it was apparent that house designs in that area had moved away from what would be considered a traditional style, including steadings which had utilised the buildings original form and materials to move to a more modern, contemporary style and materials.

The Local Review Body then considered the six principles of successful places as included within Policy P1, and acknowledged that there was no single distinctive vernacular for the area. As such, they were minded the proposed development would not be out of character and would not adversely affect the amenity of the wider area. The Local Review Body took cognisance of the varied designs of nearby dwellings which formed a distinctive place, and were in agreement that both traditional and modern buildings could exist together.

Further discussions then ensued with regards to conditions which should be imposed, to ensure that the new dwellinghouse would be in keeping with surrounding area in terms of finishing materials. The Planning Adviser confirmed that it was commonly practiced in order to ensure the materials were appropriate and conditions could be imposed, as part of a planning consent, ensuring that those conditions must be discharged before the development could commence.

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, which should include the approval of materials and finishes which would be in keeping with the area.

8. LRB 448 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT PLOT 43, MELROSE CRESCENT, MACDUFF, ABERDEENSHIRE – REFERENCE: APP/2018/2170.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland 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 Erection of a Dwellinghouse at Plot 43, Melrose Crescent, Macduff, Aberdeenshire – Reference: APP/2018/2170.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested one or more hearing sessions, 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 provided the Local Review Body an overview of the extensive planning history for the neighbouring Melrose and Springfield residential developments, with reference being made to the application site originally being allocated under the remit of the original Melrose Crescent development, as a section of land which should be retained for use as a vehicular access link road leading to the Springfield development. It was further reported that the Springfield development planning application APP/2013/2327 had been approved in 2013 and that application had been approved without a requirement for the developer to provide a secondary access to their development. As such the applicant had argued that it would be unreasonable to insist that the application site should continue to be retained for vehicular access.

The Planning Adviser then highlighted an important omission from the Report of Handling, namely, the application site boundary extends 6 meters into the existing play park and he advised that the Local Review Body, when determining the application, should consider Policy P3 and the impact that the proposed development may have on that area of land.

The Planning Adviser ended his presentation by reporting that 2 valid representations had been received during the consultation period, (1 objection and 1 in support) to the proposed development and the material issues raised within those representations were:-

Objection

- Concerns regarding the provision of secondary access into the adjacent Springfield Development.

In Support

- Development of a house on this plot would tidy up the site up.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that the proposal would not engage developer contributions, and as such, no contribution would be required; Roads Development had objected to the proposed development, having expressed concerns relating to access options, if the house was built on a site which had been earmarked for a road link between Golf View development and Melrose crescent, then the access options would no longer be viable and Scottish Water had confirmed that they did not object to application.

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

- (1) The proposed development is contrary to Policy P3: Infill and Householder Developments within Settlements (Including Home and Work Proposals). As contained in the Aberdeenshire Local Development Plan 2017, in that the development of the site would result in the loss of a proposed access road link to the detriment of an in prejudice to the delivery of accessibility measures required to serve the neighbouring housing development in the interests of road safety.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy 1: Layout, Siting and Design; Policy P3: Infill and Householder Developments within Settlements (Including Home and Work Proposals); 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.

In response to a questions raised by the Local Review Body, the Planning Adviser stated:

- (1) A Purchase Notice allows a land owner to serve a purchase notice on a Local Authority, requiring them to buy land, if planning permission has been refused and the applicant is minded that land is subsequently incapable of being developed;
- (2) The play park was not on the original plan, however, its current status, and use, would be material a consideration when determining the application;
- (3) The Planning Service had no mechanism to force the developer to provide access, as it was not a condition of their planning approval; and
- (4) The Planning Service cannot condition an application on someone else's property.

During discussion, the Local Review Body were unanimous in their view that they did not have enough information before them to allow them to determine the Notice of Review. As such the Chair asked members' to focus their attention on what information would be required and who should be asked to provide that information.

- (i) A detailed planning history of the built out area for the Springfield and Melrose Developments (from the Planning Service);
- (ii) Clarification on the ownership/maintenance/design of the Playpark (from the Planning Service);
- (iii) Confirmation of whether the playpark is protected, and are there any planning policy issues which the Local Review Body need to consider (from the Planning Service);
- (iv) Are the developers for the Springfield and Melrose developments bound by any legal agreements which would require them to deliver a secondary access (from the Planning Service);
- (v) The nature of the Roads Service objection, taking into account application APP/2013/2327 had been approved, without a condition which would require Springfield Properties to provide a secondary access (Roads Development);

- (vi) Is there a requirement for an emergency vehicle access point through the site of the proposed dwellinghouse (Fire Service);
- (vii) Confirmation of the ownership that the whole site, including the play park within the red line are in the ownership of the applicant (The Applicant);
- (viii) Confirmation that the Planning Service that evidence of the ownership of the land is their understanding of ownership (Planning Service on receipt of applicant's evidence); and
- (ix) An unaccompanied site inspection.

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 seeking additional information as detailed in (i) to (ix) above.

9. LRB 449 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE FROM OFFICE (CLASS 4) AND EXTENSION TO FORM DWELLINGHOUSE (CLASS 9) AT OFFICE / STORE, LAND AT 3 GARDEN PLACE, CORNFIELD ROAD, TURRIFF, ABERDEENSHIRE, AB53 4SR – REFERENCE: APP/2018/2816.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland 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 Change of Use from Office (Class 4) and Extension, to Form Dwellinghouse (Class 9) at Office/Store at Land at 3 Garden Place, Cornfield Road, Turriff, Aberdeenshire, AB53 4SR – Reference: APP/2018/2816.

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 no valid representations had been received during the consultation period, prior to determination.

Further to consultation undertaken, it was reported that Developer Obligations had stated that the proposed development for a single bedroom did not engage Policy RD2 as those types of properties were not large enough to accommodate children who would use school services. As the proposal was for a single house only, it would not engage Policy H2 which requires developments of at least 4 houses to contribute towards affordable housing; Roads Development had commented that parking could be accommodated on street and they had no further comments and Scottish Water had no specific objection but had commented that there was currently sufficient capacity within the Turriff Water Treatment Works, however, they were unable to confirm capacity at that time.

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

- (1) The proposed property is too small to provide the dwellinghouse with any meaningful amenity space. The proposals are considered contrary to the following policies from the Aberdeenshire Local Development Plan 2017; Policy P1: Layout, Siting and Design

and Policy P3: Infill and Householder Developments within Settlements (including home and work proposals).

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.

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, in terms Policy P3 Infill and householder developments within settlements and whether the proposal would erode the character or amenity of the surrounding area;
- The layout siting and design in respect of Policy P1, and the ability to demonstrate the six qualities of successful places which were: distinctive with a sense of local identity; safe and pleasant; welcoming; adaptable to future needs; efficient in terms of resources; and; well connected;
- From a technical perspective, whether the site could be adequately serviced, and whether the occupants of the development would likely achieve an adequate level of amenity, and whether an adequate level of amenity could still be enjoyed by the adjacent property; and
- Whether the previous discussion through LRB 427 has been adequately addressed in that instance.

During discussion opposing views were expressed.

Once member of the Local Review Body was minded, having considered the photomontages, that the Appointed Officer's decision was correct, as both dwellinghouses would be very close together, leaving little or no amenity space available to the occupants of the proposed dwellinghouse.

The remaining members of the Local Review Body took cognisance of the applicant's Notice of Review and supporting statement, in particular the amendments which had been made to the original development proposals, in respect of a variation to the fence alignment and treatment of window openings, which they were minded was a significant improvement. It was also acknowledged that Policy P3 Infill and householder development within settlements did not incorporate any specific requirements for a plot ratio of 33% and as the development could be considered as a small residential unit similar to a flatted type property, sufficient amenity would be afforded to the converted property in the context of Cornfield Road.

Further discussion ensued with regards to the level of amenity space provided and permitted development rights. The majority view held by members who supported the proposal was that the site and layout had been improved to such a level that the proposal could now be supported in accordance with Policy P3 Infill and householder developments within settlements. In support of the proposed development, they were in agreement that conditions

should be attached to any planning approval to ensure finishing materials would match the existing property; the provision of a refuse bin storage and for the removal of permitted development rights.

After due consideration, the majority of the Local Review Body **agreed** to DISMISS the Notice of Review and Uphold the Appointed Officer's decision to Refuse Full Planning Permission, or the reasons contained in the Decision Notice issued on 2 November, 2018.

10. LRB 450 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF 1 DWELLINGHOUSE (RENEWAL OF PLANNING PERMISSION REFERENCE: APP/2014/2988) AT LAND AT MAINS OF PITTENDRUM, ST MAGNUS ROAD, SANDHAVEN, FRASERBURGH, AB43 7EN – REFERENCE: APP/2018/2071.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland 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 Erection of 1 Dwellinghouse (Renewal of Planning Permission Reference: APP/2014/2988) at Land at Mains of Pittendrum, St Magnus Road, Sandhaven, Fraserburgh, AB43 7EN – Reference: APP/2018/2071.

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, during his presentation, highlighted some procedural errors, which he had identified, and which he advised should be considered when determining the application:-

- (1) The decision notice issued on 4 December, 2018 had stated that the Refusal was for Full Planning Permission, however, the application was for Planning Permission in Principle and as such, that is what the Local Review Body should consider when determining the review;
- (2) The application site lies within the Coastal Zone and as such the Local Review Body should consider Policy R1 when determining the review; and
- (3) Historic Environment Scotland had not been consulted prior to determination, however, there is a listed building within 100 metres of the application site and as such it would be normal practice to allow that consultee to make comment on any impact the proposed development may have on the setting of that listed building.

The Planning Adviser ended his presentation by reporting that no valid representations had been received during the consultation period, prior to determination.

Further to consultation undertaken, it was reported that Developer Obligations had confirmed that contributions had been secured under APP/2014/2988 and no further contributions would be required; Contaminated Land had no objection to the proposed development as there was no indication of any past use which may have caused contamination; Roads Development had no objection to the proposal following the proposal being amended to the erection of one dwellinghouse 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 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 dwellinghouse fails to meet the criteria set out in that policy, in that:
 - (a) It is not of a type that would be permissible in the greenbelt;
 - (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 an employment development proposal; and
 - (f) It is not an appropriate additional to a cluster or group of at least 5 houses.
- (2) Material consideration indicates that the permission should be refused, as there is a material change in planning policy relevant to this particular proposal.

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 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.

During discussion, the Local Review Body took cognisance of the Planning Adviser's advice, in relation to procedural errors which had been identified and they were unanimous in their view that they could not determine the review, without seeking further information. As such the Chair asked members' to focus their attention on what information would be required and who should be asked to provide that information.

- (i) The decision notice stated that the Refusal was for Full Planning Permission instead of Planning Permission in Principle; as the Local Review Body were considering the review 'de novo' should they be considering it as Planning Permission in Principle (from the Planning Service);
- (ii) When considering Policy R1: Special Rural Areas – what is the Planning Service policy position for the proposed development which would be sited within the Coastal Zone (from the Planning Service);
- (iii) When considering Policy HE1: Protecting Historic Buildings, Sites and Monuments – what is the Planning Service policy position on the potential impact on the setting of a nearby Grade A listed building Pittendrum House (from the Planning Service); and
- (iv) Consult with Historic Environment Scotland to ascertain what impact the proposed development may have on the setting of Pittendrum House, a category A listed building which was within 100 meters of the application site (from Historic Environment Scotland).

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 seeking additional information as detailed in (i) to (iv) above.

11. LRB 451 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE (CHANGE OF HOUSE TYPE TO PLANNING PERMISSION REFERENCE: APP/2012/0434) AT 3 BLAIRS WOOD, KINTORE, ABERDEENSHIRE, AB51 0QQ – REFERENCE: APP/2018/2628.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland and A Ross.

There had been submitted, a Notice of Review, and supporting documents by the agent, which sought a review of the Appointed Officers decision to Refuse Full Planning Permission for the Erection of a Dwellinghouse (Change of House Type to Planning Permission Reference: APP/2012/0434) at 3 Blairs Wood, Kintore, Aberdeenshire, AB51 0QQ – Reference: APP/2018/2628.

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 no valid representations had been received during the consultation period, prior to determination.

Further to consultation undertaken, it was reported that Developer Obligations had confirmed that the proposed development would not engage the Developer Obligations and Affordable Housing Policies or associated supplementary planning guidance and therefore no contributions would be required; Environment Natural Heritage had commented that if the application were approved, an updated Tree Survey would be required to fully assess the impact of the siting of the proposed treatment plant and the house itself on the tree protection zone to the rear of the site; Roads Development had no comment to make on the development and Scottish Water had no objection to the proposed development, however, had commented that while there was currently sufficient capacity in the Invercarnie Water Treatment Works, further investigation may be required, once a formal application had been submitted to them. They also advised that there was no waste water infrastructure within the vicinity and therefore private water treatment options would be required. Finally, they also advised that they would not normally accept any surface water connections into their combined sewer system as there were limited exceptional circumstances where it would allow such a connection for brownfield sites, and as such it would require a significant justification from the customer, taking into account various factors, including legal, physical and technical challenges.

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

- (1) The application is contrary to Policy P1: Layout, Siting and Design of the Aberdeenshire Local Development Plan 2017, as the proposed dwelling would be out of keeping with the sense of local identify in terms of its design and detailing. The increased ridge height would result in an overly dominant presence and the contemporary design of the propose dwelling would not be in keeping with the more modes and traditional character of the existing dwellings present at the site.
- (2) The application is contrary to Policy PR1: Protecting Important Resources of the Aberdeenshire Local Development Plan 2017, as the applicant had failed to demonstrate that the proposed dwellinghouse can be constructed and serviced without a detrimental impact on the mature trees that are adjacent to the site.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan (2017) were: Policy R2: Housing and Employment Development in the Countryside; Policy P1: Layout, Siting and Design; Policy C1: Using Resources in Buildings; Policy RD1: Providing Suitable Services and Policy RD2: Developer 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 questions raised by the Local Review Body, the Planning Adviser confirmed:

- (1) The applicant was proposing heavy duty slate, and while not the same, it was not dissimilar to what had been used by other properties within the area;
- (2) The proposed dwellinghouse would be below the height of adjacent trees;
- (3) Policy PR1 would allow for the protection of mature trees. The proposed dwellinghouse was outwith the tree protection zone, and any concerns over the protection of those trees could be conditioned.

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, bearing in mind the extant planning permission that still exists on site;
- The layout siting and design in respect of Policy P1, and the ability to demonstrate the six qualities of successful places which are: distinctive with a sense of local identify; safe and pleasant; welcoming; adaptable to future needs; efficient in terms of resources; and; well connected;
- The potential impacts on adjacent trees in respect of Policy PR1 Protecting important resources; and
- Whether there were any technical constraints.

During their discussion, the Local Review Body were minded that the wider site was a suburban development in a rural situation. Having acknowledged that, the Local Review Body did not consider the applicant's proposal to be a substantially different form of development from other dwellinghouses in the area, and the resultant height would still be below the height of the adjacent trees. It was noted that glazed areas were synonymous with developments elsewhere, and as such the development would not be unduly obtrusive.

While some concern was raised in respect of the potential impact on the tree root systems of the existing woodland/tree belt, it was agreed that an amendment to the drainage proposals could mitigate against that risk and that could be adequately controlled by planning condition.

Further discussion ensued over the exact positioning of the dwellinghouse within the site, however, the consensus of the Local Review Body was that the siting, layout and design, and specifically the height and massing, were appropriate and that the proposal was in accordance with the relevant policies contained within the Aberdeenshire Local Development Plan, 2017.

The Local Review Body gave consideration to conditions that should be applied to planning approval and agreed that conditions relating to finishing materials matching the adjacent properties; carbon neutrality; method statement for tree works; tree protection; and the removal of permitted development rights should be included.

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, which should include finishing materials matching the adjacent properties; carbon neutrality; method statement for tree works; tree protection; and the removal of permitted development rights would be included on the approval.

12. LRB 452 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF SUMMERHOUSE WITH ROOF TERRACE (RETROSPECTIVE) AT CALEDONIA, MONALTRIE AVENUE, BALLATER, ABERDEENSHIRE, AB35 5RX – REFERENCE: APP/2018/2846.

Local Review Body: Councillors P Johnston (Chair), J Hutchison, I Sutherland and A Ross.

There had been submitted, a Notice of Review, and supporting documents by the applicant, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Erection of a Summerhouse with Roof Terrace (Retrospective) at Caledonia, Monaltrie Avenue, Ballater, Aberdeenshire, AB35 5RX – Reference: APP/2018/2846.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested one or more hearing sessions, to allow the applicant to present his review; a site inspection to the application site 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, prior to determination.

Further to consultation undertaken, it was reported that the Cairngorms National Park Authority did not wish to call-in the application as it did not raise any planning issue of significance to the Park's aims.

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

- (1) The proposal results in an adverse loss of privacy to neighbouring properties and an unacceptable negative impact due to direct overlooking from the development which fails to comply with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

The Local Review Body considered that the relevant policies as contained within the Cairngorms National Park Local Development Plan 2015 were: Policy 1: New Housing Development, Part 7: Alterations to Existing Houses; Policy 3: Sustainable Design, Part 1: Design Statements and Part 4: Alterations to the Existing Building Stock.

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.

During discussion, the Local Review Body were in agreement that having considered the applicant's Notice of Review and supporting statement, along with the photo montages presented, they could not determine the review, without undertaking a site inspection to the application site and surrounding area, to allow them to get first hand visual information from a number of vantage points to ascertain whether there would be potential for overlooking on neighbouring developments.

The Local Review Body gave consideration as to whether the site inspection would be 'accompanied' or 'unaccompanied' and agreed that as they would need to gain access to the roof top terrace, the site inspection should be accompanied.

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 undertaking an 'accompanied' site inspection to the application site and surrounding area.

DRAFT