Buchan Area Committee Report 3 December 2019

Reference No: APP/2019/2185

Planning Permission in Principle for Erection of Dwellinghouse at Land at Lilybank, New Deer, Aberdeenshire, AB53 6TJ

 Applicant: Mr & Mrs C Dubbels, C/o Agent
 Agent: Baxter Design Company, 1 The Square, Mintlaw, Peterhead, AB42 5EH

Grid Ref: E:388009 N:846656
Ward No. and Name: W04 - Central Buchan
Application Type: Planning Permission in Principle
Representations 0
Consultations 3
Relevant Proposals Map Aberdeen Local Development Plan 2017
Designations: Rural Housing Market Area
Complies with Development Plans: No
Main Recommendation Refuse
1. **Reason for Report**

1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

Cllr. Jim Ingram – Request that further consideration be given to Policy R2.
Cllr. Marion Buchan – To further discuss Policy R2
Cllr. Norman Smith – To further discuss Policy R2 and redundant building

1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. **Background and Proposal**

2.1 This application seeks planning permission in principle for a dwellinghouse on land at Lilybank which is a domestic property located on the South side of the B9170 approximately 300 metres West of New Deer. (See Appendix 1 – Location Plan, Site Plan & Block Plan) The site is to the Western side of the curtilage of Lilybank which is a 1½ storey high dwellinghouse of traditional style with granite and slate construction. The application site includes a small section of part of a large traditional outbuilding which is marked upon the plan as a ‘steading’, and is in fact located principally outwith the application site boundary.

2.2 The nearest neighbouring houses to the site are to the West immediately adjacent, Lilybank, the applicant house, and beyond that Elmbank some 90 metres and to the North-West some 160 metres distant. The house is otherwise surrounded by large open fields which gradually slope upwards away from the house to the south and downwards on the other side of the road to the north.

2.3 It is proposed to connect to the public water main. It is proposed to dispose of treated foul water onsite and the required certification has been submitted.

2.4 **Technical reports and surveys**

Geotechnical Investigation – (Received 18 September 2019)

2.5 **Relevant planning history**

The principle of the proposal was unacceptable as the proposed development did not provide a pedestrian access into the village. Under the 2012 Development Plan, the organic growth policy was different to what it is under the current plan, but one of the provisions, based on 400 metres distance (which this site was within), was the necessity for a footpath connection into the settlement. The Buchan Area Committee refused the application.

3. **Representations**

3.1 No valid letters of representation have been received.

4. **Consultations**

4.1 *Internal*

**Business Services (Developer Obligations)** has stated that the local schools (New Deer Primary and Mintlaw Academy) are operating within capacity and the proposal does not engage Developer Obligations and affordable housing policies or associated supplementary guidance from the Aberdeenshire Local Development Plan 2017. Consequently no contributions are required in this instance.

**Infrastructure Services (Roads Development)** was consulted and has no objections to the proposal subject to conditions.

4.2 *External*

**Scottish Water** stated no objection to the proposals. There is currently sufficient capacity in the Turriff Water Treatment Works and no nearby Scottish Water Waste Water Infrastructure nearby and therefore private treatment options will need to be explored.

5. **Relevant Planning Policies**

5.1 **Scottish Planning Policy**

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning
system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region’s built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

From the 29 March 2019, the Strategic Development Plan 2014 went beyond its five-year review period. In light of this, for proposals which are regionally or strategically significant, or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

5.3 Aberdeenshire Local Development Plan 2017

Policy R2 Housing and employment development elsewhere in the countryside
Policy P1 Layout, siting and design
Policy E2 Landscape
Policy PR1 Protecting important resources
Policy C1 Using resources in buildings
Policy RD1 Providing suitable services
Policy RD2 Developers’ obligations

5.4 Other Material Considerations

None

6. Discussion

6.1 The main issues to consider are the principle of development and also whether a dwellinghouse could be accommodated on the site without detriment to the character and amenity of neighbouring properties and the
wider area. The adequacy of servicing arrangements must also be explored. As this application is for planning permission in principle only, details concerning the design of the proposed dwellinghouse have not been submitted and would be considered at any potential subsequent Matters Specified in Conditions stage application.

Principle of Development

6.2 Policy R2 Housing and employment development elsewhere in the countryside allows for small scale growth of settlements which are identified for growth of up to 20% of the settlement total to a maximum of 10 houses. Sites must be within 200 metres of the settlement boundary. New Deer is a listed settlement however the site is located in excess of 300 metres away from its edge and the application therefore fails to comply with this criteria.

6.3 Policy R2 Housing and employment development elsewhere in the countryside also allows for the refurbishment or replacement, upon the same site, of a disused building. The agent had advised, in a subsequent e-mail, that the larger portion of the outbuilding nearest to the dwellinghouse is still in use but the end section (approximately 22% of the total structure) is redundant for use.

6.4 The entire outbuilding is clearly ancillary to the house at Lilybank and lies within the garden ground. It is considered that ancillary buildings are never redundant or disused and could always be used for some purpose to serve the house. Domestic properties across rural Aberdeenshire have outbuildings, sheds and garages which are ancillary to a main house. To allow such structures to be used as a justification for additional dwellinghouses would create vast opportunities for sporadic rural development which is contrary to the aims of Scottish Planning Policy and contrary to the Local Development Plan. Notwithstanding, it was noted that the end section was full of firewood and garden equipment during the site visit, and therefore not redundant at all. Furthermore, that the building is complete externally, it is not as it if it has a significantly large footprint, or that any part of it is crumbling away. In fact it is noted that it is the intention to retain it, that being the case, it is considered to not be redundant.

6.5 The agent has advised that the curtilage has been split by an internal fence and that the application site is a separate plot with the end section of the outbuilding within it. The site is not a separate plot from the existing house as it does not have a separate associated dwellinghouse, therefore the planning unit is the whole entity at Lilybank (i.e. the house and garden ground, the areas outlined in red and blue, are all one planning unit). It is clear that the site is contained within a common boundary fence to that of Lilybank. In any case the internal fence only partly extends across the site and the oil boiler for Lilybank is located on the Western side of the internal fence on the side where the site is. Notwithstanding, the submitted plan clearly shows that the application does not seek to demolish the building in any case, but to retain it in its entirety, and therefore the application clearly is in conflict with Policy R2 as by retaining it demonstrates that it is not redundant.
6.6 The suggestion by the agent that the site is brownfield is also not supported. Garden ground is not brownfield land, as clearly defined, and the building is ancillary to Lilybank, in any case the building is in use, and therefore is not redundant.

6.7 There are no other criteria under Policy R2 by which the application could comply given the information which has been submitted. It is determined that the application fails to accord with the terms of Policy R2 Housing and employment development elsewhere in the countryside.

Amenity of neighbouring dwellinghouses

6.8 The proposed plot is large enough to accommodate a dwellinghouse without any undue amenity impacts upon Lilybank or any other neighbouring properties. The application accords with Policy P1 Layout, siting and design. A dwellinghouse in this location, if designed appropriately, need not have an undue impact upon the visual landscape given the surrounding landform and nearby existing house and the application accords with Policy E2 Landscape.

Servicing and access

6.9 It is proposed to connect to the public water main which is the preferred method of the Planning Service. It is proposed to dispose of foul water within the proposed site via a septic tank. Certification has been submitted to support this arrangement. Roads Development stated no specific objection to the proposals, subject to conditions. The proposed site is large enough to accommodate parking and turning areas. The servicing and access arrangements are deemed acceptable and compliant with Policy RD1 Providing suitable services.

Compliance with Policy C1 Using resources in buildings

6.10 Policy C1 can be complied with via a suspensive condition for an energy statement to be submitted in order to demonstrate that the development meets the required carbon reduction standards set out in Scottish Planning Policy.

Other

6.11 There are a number of mature trees within the site, particularly along the boundary to the public road. It is considered that a house could be accommodated on the site without directly impacting upon the trees as there does appear to be adequate space to locate a house and also protect the trees during development. Tree protection could be conditioned. However, there is a concern that the requirement for associated infrastructure relating to the access, in particular the necessity for a layby and visibility splays, will likely to result in the loss of most, or all, of the trees. Although the trees do not have any specific protection (Tree Preservation Order, Conservation Area) and could not be classified as being of significant ecological, recreational,
historical, landscape or shelter value they are nice trees that appear to be healthy and are a highly visible feature. The loss of the trees will have an adverse impact on the amenity of this area, and although it will be very localised it is still highly regrettable. The proposal is therefore in conflict with RD1 unless compensatory tree planting can be carried out.

6.12 The proposal is not in conflict with Policy RD2 Developers’ obligations as confirmed by the Developer Obligations team.

Conclusion

6.13 The proposal is in conflict the Aberdeenshire Local Development Plan 2017, in particular the terms of Policy R2 Housing and employment development elsewhere in the countryside as the site is in excess of 200 metres away from New Deer to be considered organic growth, and there is no redundant building within the proposed site to be replaced. In any case, the building lies within the residential curtilage of Lilybank and is an ancillary building to the dwellinghouse. The proposed development is in conflict with the Aberdeenshire Local Development Plan 2017.

7. Area Implications

7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

8.2 There are no staffing and financial implications.

8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

9.1 No separate consideration of the current proposal’s degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.
10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy R2 Housing and employment development elsewhere in the countryside

10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 REFUSE Planning Permission in Principle for the following reasons:-

01. The proposed development is in conflict with the Aberdeenshire Local Development 2017, in particular Policy R2 Housing and employment development elsewhere in the countryside, as the site does not comply with the organic growth exception due to distance from the settlement, and there is no redundant building within the proposed plot to be replaced, and no other exceptions apply.

Stephen Archer
Director of Infrastructure Services
Author of Report: John Todd
Report Date: 12 November 2019