**APPEAL DECISION**

(1) Remove condition no.8 from planning permission 2017/3054.

(2) Alter condition no.9 on planning permission 2017/3054 to read as follows;

‘(9). Planning permission hereby granted to siting of a caravan is for a temporary period only and shall cease to have effect on 1 May 2022 (the ‘cessation date’). Prior to the cessation date, the relevant area shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings, and any temporary development permitted under Class 14 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992.

Reason: To ensure the proper control of the use of the site and to prevent establishment of a permanent residency.’

**Appeal Reference**

LRB 419

**Planning Reference**

BB/APP/2017/3054

**Planning Proposal**

Full Planning Permission for formation of campsite, erection of reception/café buildings, shower/toilet block, siting of 5 yurts and siting of residential caravan

**Summary of Decision**

The Notice of Review specifically seeks the removal of Condition 8 attached to the grant of full planning permission dated 24 April 2018, namely: -

‘(8). No caravan hereby approved shall be sited within the application site unless the holiday yurts and the reception/café building hereby approved have been completed and become operational.

Reason: In order to retain control over this temporary form of development.’

Condition 9 on the planning permission is also directly relevant to the temporary caravan and it states;

‘(9). Planning permission hereby granted to siting of a caravan is for a temporary period only and shall cease to have effect on 1 May 2021 (the ‘cessation date’). Prior to the cessation date, the relevant area shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings, and any temporary development permitted under Class 14 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992.'
Reason: To ensure the proper control of the use of the site and to prevent establishment of a permanent residency.

During their discussion some members of the LRB noted that this would be a self-build project and that the applicant did not live locally. It was also noted that the terms of Condition 9 on the planning permission also meant that the residential caravan had only been granted a temporary consent until 1 May 2021. The case set out by the applicant was therefore accepted by these members as it was considered essential for the initial setting up of the business that the applicant be on site 24 hours a day, 7 days a week. The applicant will not be in a position to employ any assistance and to ensure costs are kept to a minimum it is essential that this work is completed as one task instead of two separate tasks.

The residential unit will also provide facilities for the applicant during the construction period on site which constitutes an employment and tourist site. On balance those members agreed that Condition 8 on the planning permission was unreasonable and should be removed.

Those members in support of removing Condition 8 also agreed that Condition 9 should be altered to allow for a further 1 year extension of the temporary consent i.e. until 1 May 2022 in order to give the applicant a greater period of time to allow for the business to become established.

The remaining members of the LRB noted that no work had been undertaken to implement the planning permission to date and because no progress had been made with the development, they considered that the existing Condition 8 should be retained and Condition 9 unaltered.

In conclusion and following a vote being taken, the LRB agreed that Condition 8 was unreasonable and failed to satisfy the tests set out in Circular 4/1998 - Use of Conditions in Planning Permissions and that it should be removed from the planning permission. In addition, the timescale for the removal of the temporary caravan as set out in Condition 9 should be extended by 12 months.

Policy Issues

None

Additional Points

None
Actions
No actions required.

Note Decision
Removal of Condition 8;
Amended Conditions 9

Other
None
Aberdeenshire Council Local Review Body

Reference LRB 419 APP/2017/3054

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Woodside of Byth, Woodside Farm, New Byth.
- Application for review by Mr Norman Duguid c/o Cooper & MacGregor Ltd against the decision by an appointed officer.
- Application reference APP/2017/3054 for full planning permission for formation of campsite, erection of reception/café buildings, shower/toilet block, siting of 5 yurts and siting of residential caravan granted conditional approval by decision notice dated 24 April 2018.
- Application drawing: Location Plan, Site Plan, Elevations and Site Section @ 1250, 1/500, 1/200 and 1/100 scale (drawing no: 043-210 C)
- No site inspection took place.

Date of Decision: 31 July, 2018

Decision

The Local Review Body (LRB) agrees to vary the decision reviewed by it, thereby removing condition No. 8, but also amending the wording of condition No.9 on planning permission APP/2017/3054, as set out in paragraph 4.0 below.

1.0 Preliminary

1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

1.2 The LRB reviewed the determination of the above application for planning permission at its meeting held on 29 June 2018. The LRB was attended by Councillors F C P Hood (Chair), J Hutchison, P K Johnston, A Ross and I Sutherland.

1.3 The LRB was shown projected plans and photographs by the Planning Adviser. These showed the application site and its relationship to the surroundings.
1.4 The LRB agreed that there was sufficient information before it to consider the Notice of Review and that no further information or site inspection was necessary in this case.

2.0 Proposal

2.1 The Notice of Review specifically seeks the removal of condition no. 8 attached to the grant of full planning permission dated 24 April 2018, namely: -

'(8). No caravan hereby approved shall be sited within the application site unless the holiday yurts and the reception/café building hereby approved have been completed and become operational.

Reason: In order to retain control over this temporary form of development.'

2.2 The condition is included as one of ten conditions that are attached to the grant of full planning permission for the formation of campsite, erection of reception/café buildings, shower/toilet block, siting of 5 yurts and siting of residential caravan. Condition no. 9 on the planning permission is also directly relevant to the temporary caravan and it states;

'(9). Planning permission hereby granted to siting of a caravan is for a temporary period only and shall cease to have effect on 1 May 2021 (the 'cessation date'). Prior to the cessation date, the relevant area shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings, and any temporary development permitted under Class 14 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992.

Reason: To ensure the proper control of the use of the site and to prevent establishment of a permanent residency.'

2.3 The proposed site covers approximately 0.5ha in area and is situated in the countryside on the eastern side of the B9027 to New Byth road, around 150m to the south of the A98 road. New Byth is one of the defined settlements in the ALDP 2017 which lies approx. 1.4km to the south of the site. Glenview, a dwellinghouse is located approx. 60m to the east of the site.

2.4 The proposed residential caravan measures approx. 10.4m x 3.7m. Supporting information on the previous history, a design statement, drainage details, lighting design and a caravan statement had all accompanied the planning application.
2.5 The planning application had originally attracted 2 letters of support and 3 letters of objection. No further representations had been received in respect the Notice of Review.

3.0 Reasoning

3.1 The main determining issue in this review relates to the need for the site to be completed and operational prior to the siting of the residential caravan and whether this requirement was reasonable, bearing in mind the six ‘tests’ contained in Circular 4/1998 – Use of Conditions in Planning Permissions.

3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policies and these were as follows:

Policy B3: Tourist Facilities;
Policy R2: Housing and employment development elsewhere in the countryside;
Policy H4: Residential Caravans;
Policy P1: Layout, siting and design;
Policy E2: Landscape;
Policy RD1: Providing suitable services and
Policy RD2: Developer’s obligations.

3.3 The LRB acknowledged that their consideration of the Notice of Review related solely to the conditions that had been applied to the planning permission (2017/3054) and therefore the previous planning history was not relevant to the consideration of this Notice of Review case.

3.4 During their discussion some members of the LRB noted that this would be a self-build project and that the applicant did not live locally. It was also noted that the terms of condition no.9 on the planning permission also meant that the residential caravan had only been granted a temporary consent until 1 May 2021. The case set out by the applicant was therefore accepted by these members as it was considered essential for the initial setting up of the business that the applicant be on site 24 hours a day, 7 days a week. The applicant will not be in a position to employ any assistance and to ensure costs are kept to a minimum it is essential that this work is completed as one task instead of two separate tasks.

3.5 The residential unit will also provide facilities for the applicant during the construction period on site which constitutes an employment and tourist site. On balance those members agreed that condition no.8 on the planning permission was unreasonable and should be removed.

3.6 Those members in support of removing condition no.8 also noted that condition no.9 requires the temporary caravan to be removed from the site by 1 May 2021. Therefore, in order to give the applicant a greater
period of time to allow for the business to become established, it was agreed that condition no.9 should also be altered to allow for a further 1 year extension of the temporary consent i.e. until 1 May 2022.

3.7 The remaining members of the LRB noted that no work had been undertaken to implement the planning permission to date and because no progress had been made with the development, they considered that the existing condition no.8 should be retained and condition no.9 unaltered to ensure that the other parts of the development are implemented prior to the siting of the caravan before accepting the case that had been put forward for the changes.

3.8 In conclusion and following a vote being taken, the LRB agreed that condition no. 8 was unreasonable and failed to satisfy the tests set out in Circular 4/1998 - Use of Conditions in Planning Permissions and that it should be removed from the planning permission. In addition, it was also agreed that the timescale for the removal of the temporary caravan as set out in condition no.9 should be extended by 12 months as set out in paragraph 4 below.

4.0 Decision

In the circumstances, the LRB agreed to:-

(1) Remove condition no.8 from planning permission 2017/3054.

(2) Alter condition no.9 on planning permission 2017/3054 to read as follows;

'(9). Planning permission hereby granted to siting of a caravan is for a temporary period only and shall cease to have effect on 1 May 2022 (the 'cessation date'). Prior to the cessation date, the relevant area shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings, and any temporary development permitted under Class 14 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992.

Reason: To ensure the proper control of the use of the site and to prevent establishment of a permanent residency.'

Informatives

1. The length of this permission: This planning permission will lapse on the expiration of a period of three years from the date of the decision notice (24 April 2018), unless the development is begun within that period. (see section 58 (1) of the Town & Country Planning (Scotland) Act 1997 (as amended).
2. Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start the development. Failure to do so is a breach of planning control and could result in the planning authority taking enforcement action. [See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Initiation of Development' Notice as appended.

3. Notice of the completion of the development: As soon as possible after the development is finished, the person who completed the development must write to the planning authority to confirm that the development has been completed. [See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Completion of Development' Notice as appended.

5. For the avoidance of doubt, it should be noted that the remaining planning conditions along with the 8 informatives that are attached to planning permission APP/2017/3054 dated 24 April 2018, all continue to remain in force.

Geraldine Fraser
Acting Head of Legal and Governance