

<b>APPEAL DECISION (LRB)</b>
<b>Appeal Reference</b>
LRB 435
<b>Planning Reference</b>
APP/2018/0626
<b>Planning Proposal</b>
Full planning permission for erection of a dwellinghouse
<b>Summary of Decision</b>
<p>Full planning permission had been sought for the erection of a dwelling house as part of a group of houses at Bruntsmiddy Cottages around 2km north of Turriff. The application had been refused due to the lack of a noise impact assessment relating to the potential impact of a neighbouring business on amenity and, at the time, a lack of agreement on development obligations payments considered necessary from the resultant development.</p> <p>The main determining issues for the review are as follows:</p> <ul style="list-style-type: none"><li>• The principle of development in relation to Policy R2 and whether the proposal formed an appropriate addition to the cluster</li><li>• Impact on the woodland and habitats on site</li><li>• Adequacy of servicing and whether occupants of development would have adequate amenity given the location of the nearby business.</li><li>• Whether planning obligations had been agreed in principal</li></ul> <p>It was confirmed that Planning Obligations had been agreed. A noise impact assessment had been submitted as part of the notice of review to address concerns regarding noise raised by Environmental Health. The LRB deferred the consideration of the application in order to receive a response to the assessment from Environmental Health. The Environmental Health officer responded by confirming that they no longer had concerns in respect of the potential for noise nuisance from the adjacent business.</p> <p>Environmental Health confirmed that the Noise Impact Assessment demonstrated that there would be no significant impacts from the adjacent workshop. Environmental Planners had confirmed that the loss of trees could be mitigated by compensatory planting. All other matters were deemed satisfactory.</p> <p>The LRB determined that the reasons for refusal had been addressed that that the application could be supported with the addition of standard planning conditions.</p>

<b>Policy Issues</b> None
<b>Additional Points</b> None
<b>Actions</b> None
<b>Note Decision</b> Approve Full Planning Permission
<b>Other</b> None

## **Aberdeenshire Council Local Review Body**

**Reference LRB 435 APP/2018/0626**

### **Review Decision Notice**

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Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Site at Bruntsmiddy Cottages, Turriff, AB53 5PN.
- Application for review by DK Meldrum Ltd (on behalf of Mr Robert Mackie) against the decision by an Appointed Officer.
- Application reference APP/2018/0626 for full planning permission for the erection of a dwellinghouse refused by decision notice dated 26 October 2018.
- Application drawings: 2BM Block Plan @1:1000 scale; 1LM (Version Number A) Floor Plan and Site Layout @ 1:50, and 1:200 scales; 5BM Location Plan 1:1000 Land Ownership; 4LM Site Cross Sections @1:200 scale; Tree Planting Position @1:500 scale; 3SM (Version Number A) Site Plan @ 1:100 scale; and, 2EM (Version Number A) Elevations and Section @1:50 scale
- No site inspection took place

Date of Decision: 5 June, 2019

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### **Decision**

The Local Review Body (LRB) agrees to reverse the determination reviewed by it, and approves Full Planning Permission, subject to conditions as contained in paragraph 4.0.

#### **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 initially reviewed the determination of the above application for planning permission at its meeting held on 22 February 2019. The LRB was attended by Councillors F Hood (Chair), R Cassie, P Gibb, J Hutchison, P Johnston and I Sutherland.
- 1.3 The LRB was shown projected plans and photographs by the Planning Adviser. Those showed the application site; and, its relationship to the surroundings.

- 1.4 The Planning Adviser confirmed that as part of the LRB submission, evidence had come to light which confirmed that contrary to the information contained within the Report of Handling, the applicant had reached agreement with the Developer Obligations Team in respect of a contribution towards Turriff Primary School, on 5 July 2018. As such, the LRB was advised that it should consider whether that aspect of the reason of refusal was still valid
- 1.5 The LRB then asked questions of the Planning Adviser in respect of:
- (i) the specific timing of the Noise Impact Assessment and whether it was received before/after the officers determination – the Planning Adviser confirmed it was after the decision date of 26 October 2019;
  - (ii) the suitability of the response from Environmental Health Officers as submitted in the Review papers – the Planning Adviser confirmed that it was not in the standard format and did not advise if any further mitigation was necessary;
  - (iii) whether or not the trees on site were formally designated – the Planning Adviser confirmed that they are not part of Ancient Woodland Inventory nor subject to a Tree Preservation Order.
- 1.6 In light of the provision of new evidence in the form of a Noise Impact Assessment dated 1 November 2018, the LRB agreed that by virtue of Regulation 13, the LRB required to defer consideration of the Review to allow for further procedure, in the form of consultation with Environmental Health Officers before further consideration could be given to the Review.
- 1.7 The LRB subsequently reviewed the determination of the above application for planning permission at its meeting held on 29 March 2019. The LRB was attended by Councillors F C P Hood (Chair), P Gibb, P Johnston and I Sutherland.

## **2.0 Proposal**

- 2.1 The site is adjacent to Bruntsmiddy Cottages and Smiddy, which is approximately 2 km north of Turriff, just off the A947 which leads to Banff. The site is approximately 1672 square metres, and currently contains a number of trees which are relatively mature albeit likely to be less than 50 years old. In close proximity to the site are other residential properties with Willaud and Shandonan to the south west, and two properties forming Bruntsmiddy Cottages to the south east. To the north west is Brunt Smiddy, and two residential properties Waverley and Marnonwells beyond that to the north. The overall cluster contains 6 dwellinghouses at present.

- 2.2 The dwelling would be of single storey, with a total of 3 bedrooms, covering a floor area of approximately 170 square metres. Proposed materials include a synthetic stone to the basecourse and quoins, with a buff render to the walls; Marley Edgemere roof tiles, and upvc doors and windows.
- 2.3 In respect of infrastructure, the access would be taken to a point on the south west frontage to the site, with provision of 3 car parking spaces to the rear. A public water supply would be utilised, while foul drainage would be to a treatment plant and soakaway.
- 2.4 Supporting information to accompany the application included certificates for the foul drainage; an ecological constraints survey and wider report; a Tree Survey; and a Noise Impact Assessment.
- 2.5 The site lies within the defined Rural Housing Market Area (AHMA).

### **3 Reasoning**

- 3.1 The main determining issues in this Review were:
- The principle of the development in terms of Policy R2 Housing and employment development elsewhere in the countryside, and the proposal forming an appropriate addition to an existing cluster of at least 5 properties;
  - 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 impacts on woodland and habitats on site; and whether compensatory planting would be an acceptable solution in respect of Policies PR1 Protecting important resources; Policy E1 Natural Heritage; and E2 Landscape;
  - From a technical perspective, whether the site can be adequately serviced, and whether the occupants of the development would likely achieve an adequate level of amenity as a result of nearby business premises;
  - Whether the applicant has adequately addressed the developer obligations required through Policy RD2; and
  - Whether the representation raises any further material considerations in addition to the above.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policies (page 14 of the agenda papers) and these were as follows:

Policy C1 – Using resources in buildings;

Policy E1 – Natural Heritage;

Policy E2 – Landscape;

Policy R2 – Housing and employment development in the countryside;

Policy P1 - Layout, Siting and Design;

Policy PR1 – Protecting important resources;

Policy RD1 – Providing suitable services; and

Policy RD2 – Developer obligations.

- 3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful but agreed that this was unnecessary. The LRB was in agreement that they had sufficient information before them and proceeded to determine the Notice of Review.
- 3.4 The LRB noted that all of the information requested had been presented 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.
- 3.5 The LRB agreed that the main determining issue for the Notice of Review as presented before them was 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, or be adversely affected by noise from the existing Smiddy workshop.
- 3.6 During discussion, the LRB 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.
- 3.7 The Planning Adviser stated that Developer Obligations contributions had been agreed on 5 July 2018 with a contribution towards the replacement of Turriff School. Furthermore 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.
- 3.8 The LRB was satisfied that the reasons for refusal had been addressed, therefore the application could be supported with the addition of standard planning conditions.
- 3.9 In conclusion, 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.

#### 4.0 Conditions

- (1) No works in connection with the development hereby approved shall commence unless details of the proposed means of enclosure to be erected on the boundary of the site have been submitted to and approved in writing by the planning authority. The development hereby approved shall not be brought into use unless the means of enclosure have been erected in accordance with the approved details. Once erected, the means of enclosure shall thereafter be permanently retained in accordance with the approved details.

**Reason:** In the interests of the residential amenities of the visual amenities of the area.

- (2) The *dwellinghouse* hereby approved shall not be erected unless an Energy Statement applicable to the dwellinghouse has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:
  - a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development.
  - b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with the Council's Supplementary Planning Guidance on Carbon Neutrality in New Developments.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

**Reason:** To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and the Council's Supplementary Planning Guidance - Carbon Neutrality in New Developments.

- (3) The tree management proposals shall be carried out in complete accordance with the approved scheme.

**Reason:** In order to preserve the character and visual amenity of the area.

- (4) No works in connection with the development hereby approved shall commence unless the tree protection measures have been implemented in full in accordance with the approved tree protection plan. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the planning authority

and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks. The approved tree protection measures shall be retained in situ until the development has been completed.

**Reason:** In order to ensure adequate protection for the trees and hedges on the site during the construction of development, and in the interests of the visual amenity of the area

- (5) No works in connection with the permission hereby approved shall commence unless a scheme of compensatory tree planting has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- a) The location of the compensatory tree planting.
  - b) A schedule of planting to comprise species, plant sizes and proposed numbers and density.
  - c) A programme for the implementation, completion and subsequent management of the proposed compensatory tree planting.

The compensatory tree planting shall be carried out in complete accordance with the approved scheme and any planting which, within a period of 5 years from the completion of the compensatory tree planting, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

**Reason:** In order to maintain woodland cover in accordance with the aims of local and national planning policies.

- (6) No development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 90 metres in both directions along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved new access in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

**Reason:** To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

- (7) The dwellinghouse hereby approved shall not be occupied unless the refuse bin uplift store area has been provided and surfaced in

accordance with the details shown on the approved plan. Once provided, the refuse bin uplift store area shall thereafter be permanently retained as such.

**Reason:** To ensure the provision of an appropriate means of servicing in the interests of road safety.

- (8) The dwellinghouse hereby approved shall not be occupied unless its lay-by, driveway, turning and parking area has been provided and surfaced in accordance with the details shown on the approved plans. Once provided, all parking and turning areas shall thereafter be permanently retained as such.

**Reason:** To ensure the timely completion of the driveway to an adequate standard to prevent the carriage of loose driveway material on to the public road in the interests of road safety.

- (9) The dwellinghouse hereby approved shall not be occupied unless the proposed foul and surface water drainage systems have been provided in accordance with the approved plans. The foul and surface water drainage systems shall be permanently retained thereafter in accordance with the approved maintenance scheme.

**Reason:** In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

### **Informatives**

1. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.
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.

4. The proposed vehicular access onto the public road shall be formed at the Developer's expense and must be constructed in accordance with the council's specification.
5. Adequate provision shall be made for internal surface water drainage to ensure that surface water does not run from the site onto the public road or vice versa.
6. Adequate precautions shall be taken to protect any Statutory Undertaker's plant which may be affected by the works/development.
7. An application for a Road Excavation Permit must be submitted to Infrastructure Services, Area Roads Office at least 15 days prior to the commencement of any excavation works within the boundaries of the public road. Applicants should note that failure to obtain a Permit is an offence in terms of s56 of the Roads (Scotland) Act 1984. Note: The Public Road may incorporate- Carriageway, Verge, Cycleway/ Footway and Visibility Envelopes.

**Karen Wiles**  
**Head of Legal and Governance**

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

### **Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)**

#### **Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.



## **NOTICE OF REQUIREMENT FOR NOTICES**

### **Notification of Initiation of Development**

The person who intends to implement the development must inform the Planning Authority of the date they intend to start work on the development as soon as it is practicable using the enclosed Notice of Initiation of Development. This Notice must be submitted before starting work. Failure to do so would be a breach of planning control under Section 123(1) of the Town and Country Planning Act 1997 and the Planning Authority may take enforcement action.

The Permission may contain pre-conditions that require specific matters to be approved before development can commence. This means that a lawful commencement of the approved development cannot be made until the particular requirements of the condition(s) have been met. The person who intends to start development must ensure that all conditions are properly complied with. If you are in any doubt about the meaning or implications of any of the conditions you should contact the Planning Authority or seek professional advice. If you do not comply fully with the conditions the Planning Authority may serve a Breach of Condition notice on you or take enforcement action and you may be prosecuted or fined. Please note, there is no right of appeal against a Breach of Condition Notice.

### **Notification of Completion of Development**

The person who completes the development must, as soon as practicable after doing so, give notice of completion to the Planning Authority using the enclosed Notice of Completion.

### **Display of Notice While Development is Carried Out**

The person who carries out the development must, for the duration of the development, display a sign or signs in the form set out in the enclosed Note in a prominent place at or in the vicinity of the site of the development. The sign/s must be printed on durable material and be readily visible to the public. Carrying out development without displaying a notice in accordance with these requirements constitutes a breach of planning control under Section 123(1) of the Town and Country Planning Act 1997 and the Planning Authority may take enforcement action.



**PLEASE NOTE – THE ABOVE REQUIREMENTS ARE IN ADDITION TO ANY SIMILAR REQUIREMENTS UNDER THE BUILDING REGULATIONS OR ANY OTHER LEGISLATION**

**NOTIFICATION OF INITIATION OF DEVELOPMENT  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, SECTION  
27A(1)**

**PLANNING APPLICATION REFERENCE NUMBER: APP/2018/0626  
Full Planning Permission for Erection of Dwellinghouse at Site Adjacent  
to Bruntsmiddy Cottages, Turriff, AB53 5PN  
Dated: 5 June, 2019**

I hereby confirm that the above development is expected to commence on:

Date: .....

The person intending to carry out the development is:

Name: .....

Address: .....

.....

.....

Postcode: .....

Telephone no: .....

\*Please delete as appropriate

\*The above person is the owner of the land to which the development relates

\*The landowner is (if different from the person above):

Name: .....

Address: .....

.....

.....

Postcode: .....



The person appointed to oversee the carrying out of the development is (if applicable):

Name: .....

Address: .....

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.....

Postcode: .....

Telephone no: .....

Signed ..... Date .....

On Behalf of .....

Please return this form, duly completed to:

Head of Planning and Building Standards  
Aberdeenshire Council  
Viewmount  
Arduthie Road  
Stonehaven  
AB39 2DQ

**IMPORTANT:**

1. Failure to submit this Notice before commencement of development would be a breach of planning control under Section 123(1) of the Town and Country Planning Act 1997 and the Planning Authority may take enforcement action.



**NOTIFICATION OF COMPLETION OF DEVELOPMENT  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, SECTION  
27B(1)**

**PLANNING APPLICATION REFERENCE NUMBER: APP/2018/0626  
Full Planning Permission for Erection of Dwellinghouse at Site Adjacent  
to Bruntsmiddy Cottages, Turriff, AB53 5PN  
Dated: 5 June, 2019**

I hereby confirm that the above development was completed on:

Date: .....

The person who completed the development is:

Name: .....

Address: .....

.....  
.....

Postcode: .....

Telephone no: .....

Signed ..... Date .....

On Behalf of .....

Please return this form, duly completed to:

Head of Planning and Building Standards  
Aberdeenshire Council  
Viewmount  
Arduthie Road  
Stonehaven  
AB39 2DQ