

6. **LRB 448** – Notice of Review Against Refusal of Full Planning Permission for Erection of a Dwellinghouse at Plot 43, Melrose Crescent, Macduff, Aberdeenshire – Reference: APP/2018/2170.
  - (i) Extract from the Minute of the Meeting of the Local Review Body of 26 April 2019 for LRB 448.



**ABERDEENSHIRE COUNCIL**

**LOCAL REVIEW BODY**

**WOODHILL HOUSE, ABERDEEN, FRIDAY 26 APRIL, 2019**

**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.

