

3. Minute of the Local Review Body Meeting of 29 May 2020.

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

SKYPE MEETING, FRIDAY 29 MAY 2020

Present: Councillors P Johnston (Chair for LRB 483 only), R Cassie (Chair for the rest of the meeting), J Hutchison, J Ingram, A McKelvie (substitute for F Hood) and A Ross.

Apologies: Councillor F Hood and I Davidson for LRB 476 only.

In the absence of the Chair, and the Vice Chair, (who was experiencing connectivity issues accessing the meeting remotely), the Clerk sought nominations for an acting Chair to start the meeting.

Councillor McKelvie, seconded by Councillor Hutchison, nominated Councillor Cassie. As no other nominations were received, Councillor Cassie was duly appointed to the Chair.

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 Ross declared an Interest in Agenda Item 6 (LRB 479), by virtue of the application site being within her ward. Councillor Ross concluded that she would withdraw from proceedings, during consideration of that item.

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 7 MAY 2020.

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 7 May 2020. As the meeting was being

held remotely, it was **noted** the Chair would sign the minute at an appropriate time, in the future, when social distancing measures had been relaxed.

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).

RECONVENED REVIEWS

5. LRB 476 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR EXTENSION TO EXISTING AGRICULTURAL SHED FOR CLASS 5 USE (GENERAL INDUSTRIAL) AND CLASS 6 USE (STORAGE AND DISTRIBUTION) AT THE STEADING BOAT OF HATTON, HATTON OF FINTRAY, FINTRAY, AB21 0JA – REFERENCE: G/APP/2019/1448.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, A McKelvie and A Ross.

The Committee Officer reported that the review would have to be deferred to a future meeting, to allow the Planning Adviser who originally presented the review to be in attendance.

After due consideration, the Local Review Body **agreed** to **DEFER** the review to be considered at a future meeting.

6. LRB 479 – NOTICE OF REVIEW AGAINST FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, GARAGE/STORE AND SUMMERHOUSE, FORMATION OF DECKING, POND AND ACCESS AT LAND TO WEST OF PARKHOUSE, DYKEHEAD, GLASSEL, BANCHORY – REFERENCE: APP/2019/2354.

Local Review Body: Councillors R Cassie (Chair), J Hutchison and A McKelvie.

With reference to the Minute of the Local Review Body meeting of 28 February 2019 (Item 5), where the Local Review Body had agreed to defer consideration of the Notice of Review, to allow them to follow further procedure, by way of seeking additional information, there had been submitted additional information requested from the applicant, namely, an agricultural needs assessment, a labour requirement and a statement which would provide justification as to why an essential worker would be required to reside onsite, and whether alternative housing options had been considered, in compliance with Policy R1: Special Rural Areas.

The Local Review Body acknowledged that all of the information requested had been circulated, as presented on pages 69-82 of the agenda papers, along with the Planning Services response to that additional information, as presented on pages 84-85 of the agenda pack, which had stated that “the requirement for an essential worker and accommodation, at that location, had been sufficiently justified, therefore

the principle of development could be accepted, in line with Policy R2: Housing and employment development elsewhere in the countryside and Policy R1: Special Rural Areas of the Aberdeenshire Local Development Plan 2017.

During discussion, one member of the Local Review Body, with working knowledge of the farming industry, stated that there was some confusion between the information contained in the labour report and the figures provided in Appendix B to that report. As such, he suggested that it would be helpful, just to be very clear, if the applicant could provide the single application form, which every farmer must submit (detailing stock numbers and cropping areas) to the rural payments inspectorate on an annual basis.

After due consideration, the Local Review Body **agreed**, to **DEFER** consideration of the Notice of Review to seek additional information from the applicant, namely, the single application form which every farmer must provide to the Rural Payments Inspectorate, on an annual basis.

Councillor Cassie then stood down as Chair, following confirmation that Councillor Johnston had resolved his technical issues and had re-joined the meeting.

NEW REVIEWS

7. LRB 483 – NOTICE OF REVIEW, AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AND INTEGRAL GARAGE AND INSTALLATION OF AIR SOURCE HEAT PUMP AT 5 CASTLE STREET, STONEHAVEN – REFERENCE: APP/2019/2734.

Local Review Body: Councillors P Johnston (Chair), R Cassie, J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, 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 Integral Garage and the Installation of an Air Source Heat Pump at 5 Castle Street, Stonehaven – Reference: APP/2019/2734.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested further written submissions, 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 photographs of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 8 valid representations had been received during the consultation period, which were opposed to the proposed development and the material issues raised within those representations were:

- Loss of light and privacy, together with overshadowing from the proposal;
- Potential noise from the Air Source Heat Pump;

- General overdevelopment of the site;
- Impact on residential amenity;
- Overlooking into bedroom window;
- Daylight and sunlight significantly reduced;
- Scale and design of proposals;
- Impact on Category C Listed Building; and
- An appreciation of the activities and noise already generated from within the adjacent Yacht Club, which could impact upon future residents.

It was further reported that two further representations had been received, in response to the Notice of Review, and those submissions had reiterated their original reasons for opposing the proposed development, as presented on Pages 176-188 of the agenda pack.

Further to consultations undertaken, it was reported that Developer Obligations had advised that the proposed development would not engage Developer Obligations and Affordable Housing policies, therefore no contributions would be required; Archaeology had no objection to the proposed development, subject to a condition, if granted for a photographic survey; Contaminated Land had advised that they had no concerns and no further information regarding contaminated land would be required; Built Heritage had commented "In terms of significance, the old town of Stonehaven was one of the least spoilt areas of the conservation area and had a strong traditional character, which gives it not only a special interest, but also makes it a particularly attractive part of the settlement for residents and tourists alike. Although there was a place for contemporary design, overtly bold modern additions, which begin to overshadow the strong traditional character, would have a negative impact and potentially make the location less attractive to visitors and residents. The sea facing elevation, in particular, was not appropriate to the location and neither preserved, nor enhanced the conservation area, neither would it protect the special characteristics which gave rise to the designation. The Environment Team could not support the application, and they were minded that there may be a more favourable solution, and they would welcome discussions on a more sympathetic design". Environmental Health had no objection, subject to a condition relating to noise output from the proposed air source heat pump; Roads Development had initially providing a holding objection, until provision of additional information which included clarification over the dimensions of the spaces, the status of the 'enhanced flat' and dropped down kerb provision being illustrated on the site plan, with regular kerbs beyond and Scottish Water had commented that they had no objection to the application as there was sufficient capacity in the Invercarnie Water Treatment Works, as well as sufficient capacity in the Nigg Waste Water Treatment.

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

- (1) The proposal, was of a scale, significantly greater than the building which it replaces, and consequentially, has a detrimental impact upon the residential amenity of adjacent property. As such, it was considered to be contrary to Policy P3: Infill and householder development within settlements of the Aberdeenshire Local Development Plan (2017).

- (2) The proposal, and in particular the rear elevation, is of a design which does not reflect the qualities of the Stonehaven Conservation Area, within which it is located. As a result, it has a detrimental impact upon the visual and historical character of the area, and is therefore considered to be contrary to Policy P1: Layout, siting and design and Policy HE2: Protecting historic and cultural areas 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 P1: Layout, Siting and Design; Policy P2: Open Space and Access to New Development; Policy P3: Infill and Householder Development within Settlements; Policy HE1: Protecting Historic Building, Sits and Monuments; Policy HE2: Protecting Historical and Cultural Areas; Policy C1: Using Resources in Buildings; Policy RD1: Providing Suitable Services and Policy RD2: Developer Obligations.

The Local Review Body noted that the main determining issue for the Notice of Review, as presented before them, was:

- The principle of a replacement dwellinghouse on site;
- Potential impacts on neighbouring residential property and amenity;
- Whether the design was appropriate within the Conservation Area and adjacent to listed buildings; and
- Technical considerations and consultation responses.

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 questions raised, the Planning Adviser confirmed:-

- (1) The loss of private views from neighbouring properties was not a material consideration when determining a planning application, however, overshadowing and loss of amenity would be.
- (2) That if a roof was put on top of the existing structure, slide 6 was able to show that it would have a lesser impact than a 2 or 2.5 story structure.
- (3) The Planning Service had concerns over the scale of the proposed development, and during pre-application discussions had considered that if the development could be restricted to 1.5 story, rather than 2- 2.5 story structure, then that would be more acceptable, at that particular location.
- (4) No.3 Castle Terrace, to the North of the site had not featured heavily on the overshadowing analysis, but No.4 and No.7 had. The proposed wall, at the end of the roof garden terrace would significantly restrict the possibility for overlooking onto Castle Street to the right and overlooking would be confined to the boat yard and out towards the harbour area.
- (5) A shared boundary, load bearing wall, between the applicant and the boat yard, was not something planning service would get involved in if there were

issues about buildability. If applicant needed access to shared boundary, that would have to be raised between the applicant and the third party.

- (6) Pre-application discussions, had considered vehicular access, and the provision of parking spaces at No.4. It was recognised that it was a tight road, however, no safety issues had been raised when considering the suitability of access and the design was determined to be acceptable.

During discussion, the Local Review Body, by a majority, determined that they did not have enough information before them to allow them to determine the Notice of Review, specifically, when considering issues relating to the design and to the points raised by members, which were specific to the application site and to the amenity of neighbouring properties. As such the Local Review Body were minded that a site inspection would allow them to gain a better understanding of all the issues raised.

After due consideration, the Local Review Body **agreed** by a majority, to **DEFER** consideration of the Notice of Review, to allow them to undertake an unaccompanied site inspection to the application site and surrounding area.

Taking into account Covid-19 and social distancing measures, it was agreed that the site inspection would not take place, until it was safe to do so and that would mean a delay in determining the Notice of Review.

Councillor Johnston continued to experience technical issues during the meeting and at this juncture, resolved to leave the meeting, rather than disrupt proceedings any further.

Councillor McKelvie, seconded by Councillor Hutchison, nominated Councillor Cassie as Chair for the remainder of the meeting. As no other nominations were received, Councillor Cassie was duly appointed to the Chair.

8. LRB 484 – NOTICE OF REVIEW, AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT CAIRNHILL, FORGLEN, TURRIFF – REFERENCE: APP/2019/2589.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, 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 Cairnhill, Forglen, Turriff – Reference: APP/2019/2589.

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 photographs of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 3 valid representations had been received during the consultation period, which supportive of the proposed development and the material issues raised within those representations were:

- The applicant farms at Cairnhill and attends cattle on the farm; and
- The work started on site for the previous approval.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that Developer Obligations had been agreed for Primary Education towards Turriff Primary School which had built in capacity for additional pupils; Roads Development had confirmed that they had no objection, subject to conditions if granted and Scottish Water had confirmed that they 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 the policy, in that:
 - a) It is not of a type that would be permissible in the green belt;
 - 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;
 - f) It is not an appropriate addition to a cluster or group of at least 5 houses.

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 E2: Landscape; Policy RD1: Providing suitable services and Policy RD2 Developers' obligations. The Proposed Aberdeen City & Shire Strategic Development Plan 2020 may also be a material consideration.

The Planning Adviser also noted that Policy R1: Special Rural Areas would also be of relevance, when determining the review, given its acceptance of dwellinghouses for essential agricultural need.

The Local Review Body noted that the main determining issues for the Notice of Review, as presented before them, were:

- The principle of the development, in terms Policy R1 Special Rural Areas and whether the proposal could be considered to comply with the criteria for a worker in a primary industry, and where the presence of the worker was

essential to the efficient operation of the enterprise and there was no suitable alternative accommodation available.

- Whether the proposal would meet any of the other criteria contained within Policy R2: Housing and Employment Development Elsewhere in the Countryside, such as the small scale growth of identified settlements as identified through Appendix 4 of the Aberdeenshire Local Development Plan 2017; and addition to an existing cluster; or retirement succession;
- Whether the general principle would be acceptable for that location, at the edge of the Special Landscape Area, in line with Policy E2: Landscape and whether from a design perspective there was scope to accord with Policy P1 Layout, Siting and Design, and the six qualities of successful places;
- Whether a technical start had been made to the previous permission granted on site, or whether the site remains in or has reverted to agricultural use; and
- From a technical perspective, whether the site could be adequately serviced in terms of access, drainage, water etc.

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 questions raised, the Planning Adviser confirmed-

- (1) That the justification report for an agricultural worker, had stated that a Full Time Equivalent (FTE)/Standard Labour Requirement member of staff was based on 1900 hours per annum. The applicant's original submission had stated that it would be 0.42 of a labour unit, 807.9 hours and that had been revised as part of the Notice of Review, with the figure increasing to 1286 hours, which was still significantly less than the FTE of 1900 hours per annum.
- (2) Previous permissions had been implanted and the Planning Adviser presented a photograph which showed where the applicant had stated that access had been formed, however, it was evident that the alleged access had been utilised for ongoing agricultural use for a considerable period of time. Farm machinery had degraded the verge and it was relatively open and any evidence of forming an access would have a kerb, with a radius which would delineate that access. The Planning Service's position was that no evidence had been provided to show that such an access had been formed.
- (3) That the doubling of labour requirements from the original submission, to the justification statement as part of the Notice of Review was not down to a substantial change in stocking ratios, but the difference was down to the agent possibly not quite understanding agricultural practices, as the updated

statement had been provided by Chalmers Rural, who would have that knowledge.

One member of the LRB felt inclined to agree with the agent's assertion that a site visit would be beneficial in the determination of the review.

The Local Review Body agreed, by a majority, that they had enough information before them and proceeded to determine the Notice of Review.

During discussion, the Local Review Body gave consideration to the applicant's supporting statement, which had indicated that the agricultural land farmed by the applicant extended to 9 hectares and included a further 9.3 hectares for the suckler cows. The Local Review Body gave consideration to the claim that the applicant resided approximately 1 mile from the application site, which the applicant felt was not good for animal welfare and a presence on site would be required. The Local Review Body also noted that a cattle court owned by the applicant was located a short distance to the west of the site, however, the Planning Adviser was able to confirm that the distance as the crow flies from the applicant's current dwellinghouse to the application site was approximately 465m, with a drive of 850m via the local road network.

The Local Review Body voiced their disappointment at the lack of information provided by the applicant, in support of their proposals. The Local Review Body were unanimous in their view that the agricultural operations did not, in their view, constitute a viable farming unit, which would justify the erection of a dwellinghouse for an essential worker. Furthermore, they also took cognisance of the close proximity of the applicant's existing dwellinghouse to the proposed site for a new dwellinghouse.

After due consideration, the Local Review Body **agreed** to uphold the Appointed Officer's decision to **REFUSE** Planning Permission in Principle, for the reasons contained in the Decision Notice issued on 8 January 2020.

9. LRB 485 – NOTICE OF REVIEW AGAINST CONDITIONS ATTACHED TO FULL PLANNING PERMISSION FOR ERECTION OF 6 DWELLINGHOUSES (ENABLING DEVELOPMENT) (AMENDED HOUSE TYPES AND SITE ACCESS ROAD TO PLANNING PERMISSION REFERENCE APP/2015/3833 AND APP/2015/3843) – REFERENCE: APP/2019/1716.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to attach Condition 7 and Condition 15 to the granted planning consent for Full Planning Permission for the Erection of 6 Dwellinghouses (Enabling Development) (Amended House Types and Site Access Road to Planning Permission Reference APP/2015/3833 and APP/2015/3843) – Reference: APP/2019/1716.

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 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 photographs 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 consultations undertaken, it was reported that Developer Obligations had noted that an existing legal agreement was in place for the site under Application References APP/2015/3833 and APP/2015/3843 and as the current application proposed amended house types, under the future proofing clause, it was considered covered by the existing legal agreement, therefore, no further contribution would be required; Environmental Health had no objections to the proposal, subject to conditions, if granted, relating to connection to the public water supply and any potential noise impact, as a result of the proposed air source heat pumps; Flood Risk and Coast Protection had confirmed that they were satisfied with the measures being proposed to deal with surface water drainage and that there was no watercourse close enough to present a significant fluvial flood risk to the development. They did however advise that conditions be placed on any permission, in relation to the proposed surface water soakaway and the maintenance of said drainage system; Roads Development had confirmed that upon receipt of amended plans, in regard to visibility splays, it had no further comments to make on the application, subject to standard conditions and informatives being placed on any permission. It was agreed during the planning process for APP/2015/3833 and APP/2015/3843 that the development would remain private to protect the rural character of the development; Waste Management had confirmed that it had no objection to the proposal. Individual bins would be stored at each property and then presented for collection at the bin store as highlighted on the site plan; SEPA had confirmed that it had no objection to the proposal, subject to a condition relating to the private drainage system as an interim measure, with the intention of connecting the development to the public sewer in future and Scottish Water had confirmed that there was sufficient capacity in the Invercarnie Water Treatment Works and they also confirmed that there was no public Scottish Water, Waste Water infrastructure within the vicinity of the proposed development.

The Local Review Body then considered Condition 7 and Condition 15, placed on permission APP/2019/1716, namely:

- (7) No works in connection with this permission hereby approved shall take place unless an Access Plan detailing both the internal and external path network connecting to Newmachar along with signboard interpretation has been submitted to and approved in writing by the Planning Authority. The agreed Access Plan scheme shall provide details of the siting, composition and surfacing of the path network together with appropriate management proposals for the care and maintenance of paths following their implementation. The development shall be carried out in accordance with the agreed Access Plan in accordance with the timing as agreed by the enabling works programme which is subject of the section 75 associated with this

application.

Reason: In order to preserve the character and visual amenity of the area and to ensure that the public benefit derived from the enabling works is carried out in accordance with an agreed enabling works programme.

- (15) That subject to confirmation from Scottish Water regarding provision of a public waste water system available on the west side of the A947 and within 300m of the application site boundary, each dwellinghouse in the development hereby approved shall connect into this system within a period of 6 months from the date that connection is available.

Reason: To protect people and the environment from the impact of waste water and ensure the development of the public sewerage network.

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 P2: Open space and access in new development; Policy HE1: Protecting historic buildings, sites, and monuments; Policy HE3: Helping to reuse listed buildings at risk; Policy C1: Using resources in buildings; Policy C4: Flooding; Policy RD1: Providing suitable services and Policy RD2: Developers' obligations.

The Local Review Body noted that the main determining issues for the Notice of Review, as presented before them, was whether imposing Condition 7 and Condition 15 on the planning permission for APP/2019/1716 would meet the six policy tests within the Scottish Government Planning Circular 4/1998, namely, whether they were necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise or reasonable in all other aspects.

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 questions raised, the Planning Adviser confirmed:-

- (1) In respect of Condition 7, part of the land required to deliver the footpath connection was outside the direct control of the applicant and Roads Development had stated that there was insufficient room to provide a suitable standard of footway within the road verge. The footpath provision was not contained within the Section 75 agreement. Policy P1 provided a requirement for development to be well connected whilst Policy RD1 introduces requirements for safe and convenient access to new developments.
- (2) In respect of Condition 15, the ground conditions, as set out in the supporting Ground Assessment, were suitable for private drainage treatment systems. The site was not subject to any identified groundwater constraints or within a specific area identified by SEPA as being of concern with regards to the proliferation of private foul drainage infrastructure. SEPA's concerns related to the number of systems proposed and the general presumption in favour of public connections. Policy RD1 provided the general presumption of

connecting to mains infrastructure where available and SEPA had requested the condition in anticipation of an upgraded connection to the west of the A947. There was no certainty around the timing of any upgrade which would need to be undertaken by Scottish Water, or whether any such upgrade would definitively be within 300m of the proposed site.

During discussion, opposing views were expressed.

One member of the Local Review Body was minded that the Notice of Review should be dismissed, on the grounds that Appointed Officer had, in their view applied the correct conditions to the granted planning consent for APP/2019/1716.

The remaining members of the Local Review Body gave consideration to the removal of Condition 7 and 15 from the granted planning consent as they were minded that when considering Circular 4/1998, Condition 7 was in their view neither reasonable or enforceable as there an extensive section of footpath, which would be required, which crossed third party land, outwith the applicant's control. When considering Condition 15, there was some uncertainty as to the timing and location of an upgrade to the mains foul drainage network in the area and as the private drainage arrangements were considered to comply with Policy RD1, there was no need to apply that condition.

As Councillor McKelvie, had moved an amendment, which was not seconded, he requested that the terms of his amendment be recorded in the minute (as contained within Standing Order 5.2.4). "To dismiss the Notice of Review and Uphold the Appointed Officer's decision to apply Condition 7 and 15 to the Grant of Full Planning Permission for APP/2019/1716".

After due consideration, the Local Review Body, **agreed**, by a majority, to the **removal** of Conditions 7 and 15 from the Grant of Full Planning Permission for APP/2019/1716.

10. LRB 486 – NOTICE OF REVIEW, AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AT SITE ADJACENT TO ADELBODEN, GAUCHHILL ROAD, KINTORE, ABERDEENSHIRE, AB51 0XQ – REFERENCE: APP/2019/2119.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Planning Permission for the Erection of a Dwellinghouse at a Site Adjacent to Adelboden, Gauchhill Road, Kintore, Aberdeenshire, AB51 0XQ – Reference: APP/2019/2119.

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 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 photographs of the site and surrounding area.

The Planning Adviser ended his presentation by reporting that 1 valid representation had been received during the consultation period, which was opposed to the proposed development, and the material issues raised within that representation were:

- Amenity impacts, including overlooking and separation distances; and
- Drainage and surface water disposal.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that developer obligations had been agreed towards planned extension works at Meldrum Academy, to create additional capacity for primary education. No payment had been made at the time of writing, if the application were approved, those would be secured; Roads Development had no objection to the proposal, subject to standard conditions; the Health and Safety Executive had no objection to the proposal on safety grounds; the National Grid had highlighted that there were apparatus in the vicinity of the site which may be affected by the development and further action would be required by the applicant if the application were approved and Scottish Water had confirmed that there was sufficient capacity at the Invercannie Water Treatment Works and that further investigations may be required through a formal application. The response also confirmed that there was no record of waste water infrastructure in the vicinity and private treatment options should be considered.

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

- (1) The proposal does not comply with the requirements of Policy R2: Housing and employment development elsewhere in the countryside as it does not reflect an appropriate brownfield redevelopment opportunity or redundant site by virtue of its siting on an area of hardstanding previously used as storage for caravans, an adjacent and currently operating business. Furthermore, the proposal cannot be considered as retirement succession in terms of Policy R2 as it does not relate to a primary farming industry. The proposal therefore does not comply with any criteria of the above Policy R2 of the Aberdeenshire Local Development Plan 2017.
- (2) It has not been demonstrated that the proposal can be satisfactorily serviced in terms of foul water as no drainage certificate has been provided to demonstrate that the proposed treatment plant would be acceptable. The proposal therefore does not comply with the requirements of Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017 as insufficient information has been provided.

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 P3: Infill and householder developments within settlements Policy C1: Using

resources in buildings; Policy RD1: Providing suitable services and Policy RD2: Developers' obligations.

The Local Review Body noted that the main determining issues for the Notice of Review, as presented before them, was the principle of development and its siting and servicing.

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 questions raised, the Planning Adviser confirmed:-

- (1) There were no outstanding objections from the Health and Safety Executive or the National Grid. National Grid had highlighted that there was apparatus in the vicinity of the site, which may be affected by the development, however, it would be up to the applicant to mitigate any risk against the potential disturbance of assets and the onus would be on the developer to enter into discussion with National Grid if the proposal was granted.
- (2) The gas pipeline and facilities shown on a map on Page 574 of the agenda pack appears are some distance away. The National Grid would consider how many houses were in various zones (inner, intermediate and outer zone), and in terms of managing risk they would seek to limit the amount of houses in the inner zone to deal with mitigation planning for major incidents.

The Local Review Body agreed, that they had enough information before them and proceeded to determine the Notice of Review. A site visit or hearing was considered but it was determined that neither were required.

During discussion, the Local Review Body were in general agreement that the Appointed Officer had assessed the application correctly and applied the correct policies. Having determined the information as presented before them, the Local Review Body were minded that the proposal could not be considered as an appropriate brownfield development opportunity as the siting of the proposed new dwellinghouse would be on an area of hardstanding, previously used as storage for caravans. Having considered whether it could be considered as retirement succession in terms of Policy R2, they were minded that it could not, as it was not related to a primary farming industry and the applicant had not provided sufficient information to overturn the original decision.

The Local Review body did acknowledge material considerations, namely whether the proposal could be considered to be in compliance with Policy P3, Infill and Householder Developments within Settlements (including home and work proposals). The Local Review Body were minded that the site was considered to be suitable for development; economic benefits could be achieved through the sale of the site and also its relationship to the settlement boundary. However, while some weight was given to those material issues, they were minded that there were not sufficient grounds to depart from Policy R2 and RD1.

After due consideration, the Local Review Body **agreed** to dismiss the Notice of Review and Uphold the Appointed Officer's Decision to **REFUSE** Planning Permission in Principle, for the reasons contained in the Decision Notice issued on 13 December 2019.

11. LRB 487 – NOTICE OF REVIEW, AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AND GARAGE AT SITE BY MILLMOSS NURSERIES, TURRIFF, ABERDEENSHIRE, AB53 8BJ – REFERENCE: APP/2019/2835.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, a Notice of Review and supporting documents, submitted 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 and Garage at a Site by Mossmill Nurseries, Turriff, Aberdeenshire, AB53 8BJ – Reference: APP/2019/2835.

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 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 photographs 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 consultations undertaken, it was reported that Developer Obligations had sent an assessment report to the application at the time of writing and should the application be supported, then the developer would organise payment via a Section 75 legal agreement; Contaminated Land had stated that the risk of contamination was very low and no further information would be required, however, a formal note had been advised, warning that should contamination be discovered, then investigation and mitigation may be required; Coastal Protection had stated that they had not comment to make on flood risk; Roads Development had stated that they had no specific objection to the proposal as the development would utilise the existing vehicular access to then access onto the public road. The forward visibility on both sides of the existing junction was inline with Aberdeenshire Council's standards and standard conditions would be recommended. The Head and Safety Executive, Explosives Inspectorate had stated that the proposed development site did not lie within the consultation distance (CD) of a major hazard site or a major accident hazard pipeline and they did not object to the application; the Ministry of Defence had not responded during the consultation period, however, the Service had taken that as no objection to the application and Scottish Water had no objection to the application as there was currently sufficient capacity in the Turriff Water Treatment Works and there is no public Scottish Water Waste Water infrastructure within the vicinity of the proposed development.

It was further reported that the Planning Service and the Defence Infrastructure Organisation had provided further comment to the Notice of Review as presented on Pages 637-639 of the agenda pack.

The Planning Service had stated that the Notice of Review had referred to the Report of Handling for the dwellinghouse approved and built at the wider site (APP/2017/2083) and which highlighted the following text; It is acknowledged that the greenhouse has since been removed however as the principle was established this year it is considered that for this application the principle still stands as acceptable, however, the appeal submission had failed to directly acknowledge the reasons for this conclusion, specifically that there was an extant Planning Permission in Principle Approval (APP/2017/0137) at that site which was approved under the 2012 Aberdeenshire Local Development Plan because, at that time, large greenhouse buildings occupied that site within that redline boundary.

The Local Review Body were asked to note that the glossary definition for brownfield land within the 2017 Aberdeenshire Local Development Plan specifically mentions that only in exceptional circumstances would 'reinstated sites' be considered as brownfield development opportunities. The Planning Service stated that it was clear that the sites within the redline boundaries for the tandem applications under review had been reinstated as no visible trace of previous development exists. The Planning Service's Reports of Handling for those applications noted that there are brownfield opportunities for houses elsewhere at that location which could be utilised by the applicant and therefore there were no exceptional circumstances for those applications to be approved as departures from the 2017 Aberdeenshire Local Development Plan. All relevant information submitted prior to determination has been considered by the Planning Service and discussed within the reports.

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

- (1) The principle of development cannot be established against Policy R2: Housing and employment development elsewhere in the countryside as this policy allows only for the remediation of brownfield land onsite while the site itself is greenfield and any structures deemed redundant which could be considered for replacement are offsite. The application fails to accord with 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 P1: Layout, siting and design; Policy P4: Hazardous and potentially polluting developments and contaminated land; Policy R2: Housing and employment development elsewhere in the countryside; Policy E2 Landscape; Policy C1 Using resources in buildings; Policy C4 Flooding; Policy RD1 Providing suitable services and Policy RD2 Developer's obligations. It was also report that the proposed Aberdeen City & Shire Strategic Development Plan 2020 may also be a material consideration.

The Local Review Body noted that the main determining issues for the Notice of Review, as presented before them, was the principle of development and whether there were any significant impacts upon local character and amenity.

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 questions raised, the Planning Adviser confirmed:-

- (1) The applicant had submitted the application based on the understanding that there was previous development on the site, however, when reading the glossary to the Local Development Plan 2017, it does make specific reference to that and says, it is necessary for a brownfield site to be redundant, and only exceptionally will buildings that are, or could be used for storage purposes, including silage clamps or other specialised agricultural structure, temporary buildings, hardstanding, reinstated sites or sites disused or redundant for so long that they have become naturalised. That puts the policy context and the guidance to back that up. The view of the Planning Service, in line with the Local Development Plan is that the site was reinstated, therefore could not be considered, unless by exception, in all circumstances as a brownfield site.
- (2) The applicant had made reference on Page 595 of the agenda pack, to structures on site beneath the surface, which could be reference to some of the original structures that had been present. There could be remained footings or rubble of the demolished greenhouses underground but they were not visible on the surface and in terms of the brownfield policy, the Planning Service would be looking for some visible evidence of previous development to be there before consideration could be given to a replacement development.
- (3) He had been onsite the previous week and the existing greenhouse areas between the two shaded pink areas, shown on the powerpoint presentation were still extant and still in place and still in use.
- (4) Infill Development would normally be applied to developments within a town, sometimes called 'white land' with the potential for development. The application before them would not meet that criteria.

The Local Review Body agreed, that they had enough information before them and proceeded to determine the Notice of Review. A site visit or hearing was considered, but it was determined that neither were required.

During discussion opposing views were expressed.

Those who were minded to uphold the Appointed Officer's decision to Refuse Planning Permission in Principle were content that the site would, in their view, be considered to be a naturalised site, therefore the policy criteria contained within Policy R2 have not been met, as the application could not be considered as a brownfield development opportunity.

Those who were minded to uphold the Notice of Review and Grant Planning Permission in Principle were sympathetic to the applicant, and were content that land

use had already been established at the application site, which was in their view a material consideration when determining the proposal.

Councillor Cassie, seconded by Councillor McKelvie, moved to dismiss the Notice of Review, and to uphold the Appointed Officer's decision to REFUSE Planning Permission in Principle, for the reasons contained in the Decision Notice, issued on 17 February 2020.

Councillor Ingram, seconded by Councillor Ross, moved as an amended to uphold the Notice of Review and to reverse the Appointed Officer's decision, and GRANT Planning Permission in Principle, on the grounds that the principle of development had been established, for the redevelopment of a brownfield site in compliance of Policy R2.

The members of the Local Review Body then voted:-

For the motion (2) Councillors Cassie and McKelvie.

For the amendment (3) Councillors Hutchison, Ingram and Ross.

The amendment was carried, and the Local Review Body **agreed** to uphold the Notice of Review and to reverse the Appointed Officer's decision and **GRANT** Planning Permission in Principle, subject to standard planning conditions and the payment of Developer Obligations.

12. LRB 488 – NOTICE OF REVIEW, AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE AND GARAGE AT SITE BY MILLMOSS NURSERIES, TURRIFF, ABERDEENSHIRE, AB53 8B – REFERENCE: APP/2019/2836.

Local Review Body: Councillors R Cassie (Chair), J Hutchison, J Ingram, A McKelvie and A Ross.

There had been circulated, a Notice of Review and supporting documents, submitted 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 and Garage at a Site by Mossmill Nurseries, Turriff, Aberdeenshire, AB53 8BJ – Reference: APP/2019/2836.

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 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 photographs 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 consultations undertaken, it was reported that Developer Obligations had sent an assessment report to the application at the time of writing and should the application be supported, then the developer would organise payment via a Section 75 legal agreement; Contaminated Land had stated that the risk of contamination was very low and no further information would be required, however, a formal note had been advised, warning that should contamination be discovered, then investigation and mitigation may be required; Coastal Protection had stated that they had no comment to make on flood risk; Roads Development had stated that they had no specific objection to the proposal as the development would utilise the existing vehicular access to then access onto the public road. The forward visibility on both sides of the existing junction was inline with Aberdeenshire Council's standards and standard conditions would be recommended. The Head and Safety Executive, Explosives Inspectorate had stated that the proposed development site did not lie within the consultation distance (CD) of a major hazard site or a major accident hazard pipeline and they did not object to the application; the Ministry of Defence had not responded during the consultation period, however, the Service had taken that as no objection to the application and Scottish Water had no objection to the application as there was currently sufficient capacity in the Turriff Water Treatment Works and there is no public Scottish Water Waste Water infrastructure within the vicinity of the proposed development.

It was further reported that the Planning Service and the Defence Infrastructure Organisation had provided further comment to the Notice of Review as presented on Pages 691-693 of the agenda pack.

The Planning Service had stated that the Notice of Review had referred to the Report of Handling for the dwellinghouse approved and built at the wider site (APP/2017/2083) and which highlighted the following text; It is acknowledged that the greenhouse has since been removed however as the principle was established this year it is considered that for this application the principle still stands as acceptable, however, the appeal submission had failed to directly acknowledge the reasons for this conclusion, specifically that there was an extant Planning Permission in Principle Approval (APP/2017/0137) at that site which was approved under the 2012 Aberdeenshire Local Development Plan because, at that time, large greenhouse buildings occupied that site within that redline boundary.

The Local Review Body were asked to note that the glossary definition for brownfield land within the 2017 Aberdeenshire Local Development Plan specifically mentions that only in exceptional circumstances would 'reinstated sites' be considered as brownfield development opportunities. The Planning Service stated that it was clear that the sites within the redline boundaries for the tandem applications under review had been reinstated as no visible trace of previous development exists. The Planning Service's Reports of Handling for those applications noted that there are brownfield opportunities for houses elsewhere at that location which could be utilised by the applicant and therefore there were no exceptional circumstances for those applications to be approved as departures from the 2017 Aberdeenshire Local Development Plan. All relevant information submitted prior to determination has been considered by the Planning Service and discussed within the reports.

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

- (2) The principle of development cannot be established against Policy R2: Housing and employment development elsewhere in the countryside as this policy allows only for the remediation of brownfield land onsite while the site itself is greenfield and any structures deemed redundant which could be considered for replacement are offsite. The application fails to accord with 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 P1: Layout, siting and design; Policy P4: Hazardous and potentially polluting developments and contaminated land; Policy R2: Housing and employment development elsewhere in the countryside; Policy E2 Landscape; Policy C1 Using resources in buildings; Policy C4 Flooding; Policy RD1 Providing suitable services and Policy RD2 Developer's obligations. It was also reported that the proposed Aberdeen City & Shire Strategic Development Plan 2020 may also be a material consideration.

The Local Review Body noted that the main determining issues for the Notice of Review, as presented before them, was the principle of development and whether there were any significant impacts upon local character and amenity.

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 agreed, that they had enough information before them and proceeded to determine the Notice of Review. A site visit or hearing was considered, but it was determined that neither were required.

During discussion opposing views were expressed.

Those who were minded to uphold the Notice of Review were minded that having previously considered and granted the previous application for the development of Plot 2, they believed that the application before them would also be in compliance with Policy R2 as a brownfield development opportunity. When considering the layout and siting of the proposed dwellinghouse, at that site, they held the view that the site would be large enough to accommodate another dwellinghouse without it being considered as overdevelopment of the site.

One member of the Local Review Body was minded to uphold the Appointed Officer's decision to Refuse the application, on the grounds that it was a greenfield site and the application was not a brownfield development proposal, therefore would not comply with the policy criteria contained within Policy R2.

As Councillor Cassie, had moved an amendment, which was not seconded, he requested that the terms of his amendment be recorded in the minute (as contained within Standing Order 5.2.4). "To dismiss the Notice of Review and Uphold the Appointed Officer's decision to REFUSE Planning Permission in Principle for the reasons contained in the Decision Notice issued on 17 February 2020.

After due consideration, the Local Review Body, **agreed**, by a majority, to uphold the Notice of Review, and to reverse the Appointed Officer's decision and **GRANT** Planning Permission in Principle, subject to standard planning conditions, and the payment of Developer Obligations.

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