

Local Review Body Decision Notice
Appeal Reference: LRB 476
Planning Reference: APP/2019/1448
Planning Proposal: Full Planning Permission for Extension to Existing Agricultural Shed for Class 5 Use (General Industrial) and Class 6 Use (Storage and Distribution)
Address: The Steading Boat of Hatton, Hatton
Summary of Decision:
<p>The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision.</p> <p>The application sought an extension to an existing agricultural building for Class 5 and 6 uses. The application was reviewed at the LRB meeting on 31st January 2020 where the LRB agreed to defer consideration of the notice of review until a noise impact assessment had been submitted and presented to Infrastructure Services (Environmental Health) for comment. Following receipt of this information at the meeting of 31st July 2020 the LRB confirmed they had sufficient information before them and proceeded to determine the Notice of Review.</p> <p>The main determining issues for the Review related to the three reasons for refusal and the applicant's case to counter those reasons:</p> <ul style="list-style-type: none">• To consider the relevance of Policy P3 and whether the first reason, relating to the proposal being contrary to the requirements of Policy R2, is valid and whether the LRB share the concern of the Planning Service that Class 5 and 6 uses are not appropriate in this countryside location, and that such development should be directed to settlements and allocated employment land, as set out in the spatial strategy of the Local Development Plan.• Following on from that, the second reason requires consideration of whether the Class 5 and 6 uses in general are appropriate to the character of the site and area, in the context of Policy P1.• And finally, whether the requested noise assessment has given enough comfort that the proposal can operate without impacting on amenity, even though the majority of mitigation measures required cannot be controlled through planning. <p>Following a vote of 3 to 2, the LRB agreed to UPHOLD the Appointed Officer's decision to REFUSE Full Planning Permission, for the reasons contained in the Decision Notice APP/2019/1448 as it does not accord with</p>

Policy R2, and is contrary to Policies P1 and P4 of the Aberdeenshire Local Development Plan 2017.

Policy Issues:

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; and

Policy RD1: Providing suitable services.

Additional Points: None

Actions: Note Decision to REFUSE

Aberdeenshire Council Local Review Body

Reference LRB 476 APP/2019/1448

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: The Steading Boat of Hatton, Hatton of Fintray, Fintray, AB21 0JA
- Application for review by Lippe Architects and Planners on behalf of Mr and Mrs B Duguid against the decision by an Appointed Officer.
- Application reference APP/2019/1448 for 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 refused by Decision Notice dated 20th August 2019.
- Application drawings:
 - Reference Number: 5607/LOC Version A Location Plan
 - Reference Number: 5607/03 Version A Overall Site Plan
 - Reference Number: 900 Version 1 Proposed Drainage Layout
 - Reference Number: 5607/02 Version D Shed Extension Proposals
- No site inspection took place.

Date of Decision: 14 September 2020

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision 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 31st January 2020 (Item 8) and was attended by Councillors R Cassie (Chair), I Davidson, J Hutchison, A McKelvie, A Ross and I Sutherland. The LRB then reconvened on 31 July 2020 (Item 5). The LRB was attended by Councillors R Cassie (Chair), I Davidson, J Hutchison, R McKail and A McKelvie.

- 1.3 At the meeting on 31 January 2020 the LRB were shown projected plans and photographs by the Planning Adviser. Those showed the application site and its relationship to the surroundings. Following some discussion and questions, the LRB gave consideration as to whether further information was required, namely a full assessment of the potential noise impacts in relation to the third reason for refusal. The LRB agreed to defer consideration of the Notice of Review until a Noise Impact Assessment (NIA) had been submitted by the applicant, and that NIA should be presented to the Infrastructure Services Environmental Health service for comment, taking into account their outstanding objection..
- 1.4 At the meeting of 31 July 2020, the requested NIA was presented, along with the consultation response provided by the Environmental Health service. The LRB were then shown plans and photographs of the proposal, and a summary of the NIA recommendations and the response from the Environmental Health Service

2.0 Proposal

- 2.1 The application was for Full Planning Permission for an extension to an existing agricultural building, for Class 5 and 6 uses, at land to the north of the Steading at Boat of Hatton.
- 2.2 The site is located approximately 180m south west of the settlement of Hatton of Fintray, in open countryside within the Aberdeen Housing Market Area and around 150m west of the Aberdeen north Greenbelt. The site is approximately 60m north-west of the B979 between Hatton of Fintray and Blackburn, and 70m north east of the River Don. To the south east of the application site is Boat of Hatton steading which has been converted into a dwelling house which is owned and inhabited by the applicant. To the southwest of the application site is The Boat which is a traditional 1½ storey farmhouse which is not under the control of the applicants. To the north and east of the application site is open undulating agricultural land and to the west & immediate north of the application site is Gallows' hill which is an elevated wooded area forming an amphitheatre around the site's north western edge.
- 2.3 On site sits a corrugated metal building which measures 12m x 18m with a ridge height of 6.4m. The building has a shallow pitched roof and is finished with drydash rendered blockwork to dado height, with pale grey cladding above this to roof height. A yard area surrounds the building on all sides.
- 2.4 The proposal was for an extension to the existing building for Class 5 and 6 purposes. The extension would be a 'lean to' style extension adjoined to the existing west elevation. The proposed extension would be 8m x 18m with a floor area of 96m². The roof of the proposed extension would feature 3 rooflights and the west elevation will have 3 large roller shutter entrances and a personnel entrance. A further personnel entrance was proposed on the south elevation of new extension. The extension would be finished with goosewing grey profile metal sheeting to match the existing building.

- 2.5 The documents submitted as part of the planning application were:
- A Supporting Planning Statement prepared by the agent Lippe Architects and Planners Ltd, dated June 2019.
- 2.6 Relevant planning history includes application reference APP/2012/394 which established the building that exists on site though Agricultural Prior Notification for Erection of Agricultural Building, approved December 2012. Further to that, and following complaints of unauthorised commercial use within the consented agricultural building, application reference APP/2016/0138 sought Full Planning Permission for Part Change of Use of Agricultural Shed to Include Class 5 (General Industrial Use) and Class 6 (Storage and Distribution) (Retrospective) and was refused permission in March 2016; then the LRB dismissed a Review in June 2016.

3.0 Reasoning

- 3.1 The main determining issues for the Review related to the three reasons for refusal and the applicants case to counter those reasons:
- To consider the relevance of Policy P3 and whether the first reason, relating to the proposal being contrary to the requirements of Policy R2, is valid and whether the LRB share the concern of the Planning Service that Class 5 and 6 uses are not appropriate in this countryside location, and that such development should be directed to settlements and allocated employment land, as set out in the spatial strategy of the Local Development Plan.
 - Following on from that, the second reason requires consideration of whether the Class 5 and 6 uses in general are appropriate to the character of the site and area, in the context of Policy P1.
 - And finally, whether the requested noise assessment has given enough comfort that the proposal can operate without impacting on amenity, even though the majority of mitigation measures required cannot be controlled through planning.
- 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 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; and
Policy RD1: Providing suitable services.
- 3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful. At the initial LRB meeting it was agreed to defer consideration of the Review until a Noise Impact Assessment, and subsequent response from Infrastructure Services Environmental Health

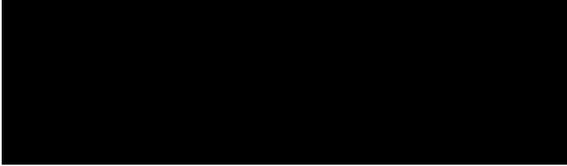
service had been received. Following receipt of that information, the LRB confirmed they had sufficient information before them, and proceeded to determine the Notice of Review.

- 3.4 In response to questions raised, the Planning Adviser confirmed that consideration must be had for the proposed land uses rather than the specific operations of the applicant, and that the bulk of the recommendations in the submitted Noise Impact Assessment, such as carrying out noisy activities in a specific part of the building or keeping doors shut at all times, were not enforceable planning conditions and therefore could not be controlled through planning.
- 3.5 The LRB gave consideration to the case set out by the applicant regarding the policy application, nature of the proposed uses, site specific characteristics and the recommendations within the Noise Impact Assessment.
- 3.6 During discussion, opposing views were expressed. Those who were minded to uphold the Notice of Review and GRANT Full Planning Permission appreciated the small nature of the proposed uses and took some comfort that the Noise Impact Assessment had, in their view demonstrated that the proposed operations could be carried out without a detrimental impact on neighbouring amenity. Those who were minded to dismiss the Notice of Review and to Uphold the Appointed Officer's decision considered the site to be inappropriate for the proposed uses and, in the absence of any enforceable control mechanism to protect amenity, they considered the proposal could have a detrimental impact on neighbouring amenity.
- 3.7 Following a vote of 3 to 2, the LRB agreed to UPHOLD the Appointed Officer's decision to REFUSE Full Planning Permission, for the reasons contained in the Decision Notice APP/2019/1448, dated 20 August 2019, as set out in paragraph 4.0 below.

4.0 Reasons for refusal

- (1) The proposed extension to facilitate class 5 and 6 use of a building originally approved solely for agricultural purposes does not accord with Policy R2: Housing and Employment Development Elsewhere in the countryside. There is no provision in the policy for employment uses in the Aberdeen Housing Market area. The proposed extension and class 5 and 6 use cannot be considered an ancillary work from home proposal and does not accord with any of the other provisions in Policy R2.
- (2) The proposal is also contrary to Policy P1: Layout, siting and design. The industrial and commercial use of the building and yard is not in keeping with the rural character of the area. Support for class 5 and 6 uses in the countryside part of the Aberdeen Housing Market Area would create an undesirable precedent and would be inconsistent with the approach the Planning Service.

- (3) The proposal does not accord with Policy P4: Hazardous and potentially polluting developments and contaminated land as it has not been demonstrated that the proposal will not cause a negative impact on the amenity of neighbouring dwelling houses.



Karen Wiles
Head of Legal and Governance