

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

SKYPE MEETING, FRIDAY, 27 NOVEMBER 2020

Present: Councillors R Johnston (Chair), P Gibb, J Hutchison, J Ingram and A McKelvie.

Officers: Senior Planners (Jim Martin for LRB 503) and (Sheena Lamont for LRB 504), Legal Adviser to the Local Review Body, (Senior Solicitor, Peter Robertson) and Committee Officer (Frances Brown).

1. DECLARATION OF MEMBERS' INTERESTS

In respect of declaration of members' interests as required by the Code of Conduct for members no declarations of members' interests were intimated.

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

3. MINUTE OF THE LOCAL REVIEW BODY MEETING OF 30 OCTOBER, 2020

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 30 October, 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).

NEW REVIEWS

5. LRB 503 – NOTICE OF REVIEW, AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT SITE TO THE REAR OF 11 HIGH STREET, CUMINESTOWN, TURRIFF, AB53 5YD – REFERENCE: APP/2020/0747.

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

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 at a Site to the Rear of 11 High Street, Cuminestown, Turriff, AB53 5YD – Reference: APP/2020/0747.

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 two valid representations had been received during the consultation period, and the material issues raised within those representations were:

- Proposal would block available sunlight to property at 13 High Street.
- Further vehicles using the private lane would be unworkable due to its configuration.
- Road safety (vehicles using the lane).
- Insufficient space for onsite parking.
- Potential privacy and overbearing impacts upon property at 9 High Street.
- Site inappropriate location for a dwellinghouse within the settlement; and
- Insufficient garden space.

It was reported that one further representation had been submitted, in response to the Notice of Review, as presented on Pages 138 and 139 of the agenda pack, which suggested that there were some inaccuracies in the plans submitted, and which provided a copy plan of the neighbours title deeds. The applicant/agent had responded to that representation, as presented on Pages 141 and 142 of the agenda pack, which presented an amended site layout plan and a revised drawing which reduced the application site to 182m² with the boundary line 300mm in to the applicant's land.

Further to consultations undertaken, it was reported that Developer Obligations had noted that Monquhitter Primary School and Turriff Academy were currently operating within capacity and the proposed development would not engage the Developer Obligations and Affordable Housing policies or associated supplementary planning guidance of the Aberdeenshire Local Development Plan 2017, therefore no contributions would be required; Roads Development had stated that it had no specific objection to the proposals, subject to conditions and Scottish Water had no

objection to the planning application as there was currently unknown capacity in the Turriff Water Treatment Works and the proposed development would be serviced by Cuminestown Waste Water Treatment Works with unconfirmed capacity.

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

- (1) The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017.

The proposed development would have an unacceptable impact upon the character of the settlement due to its siting which was out of character with the South side of High Street. The application fails to accord with the Aberdeenshire Local Development Plan 2017, in particular, Policy P1: Layout, siting and design and Policy P3 Infill and householder developments within settlements (including home and work proposals).

- (2) The proposed development would have an overbearing impact upon the garden ground of number 9 High Street by virtue of its location and scale. The application fails to accord with the Aberdeenshire Local Development Plan 2017, in particular, Policy P1: Layout, siting and design and Policy P3 Infill and householder developments within settlements (including home and work proposals).

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 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, for members to consider the review without further procedure.

In response to questions raised, the Planning Adviser confirmed:

- (1) The building on Slide 12 with the flat roof extension belongs to No.9.
- (2) The LPG tank on the grass, which supplies property No.11 would have to be moved if the development were to be approved and that would have to be agreed by the owners of the property and the developers.
- (3) Any adaptations or extension to the property at No.11 would require a building warrant to ensure the property would meet acceptable standards for the applicant.

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 expressed some sympathy for the applicant and their position, when considering the history of development on the site, where the applicant had given rights of access to neighbouring properties. They also considered the Equality Impact Assessment (EIA) which had been carried out by the Council which was favourable if the development were granted and negative if not. However, when considering the planning policy position, the EIA would not outweigh the policy position and the Local Review Body were unanimous in their view that they must support the Appointed Officer's decision on the grounds that the size and mass of the proposed dwellinghouse was not appropriate at that location, there would be a loss of amenity for the neighbouring property at No.9, there would be a loss of outdoor garden space for the property at No.11 and it would be classified as back land development.

After due consideration, the Local Review Body **agreed** to DISMISS the Notice of Review and to uphold the Appointed Officer's decision to REFUSE Full Planning Permission, for the reasons contained in the Decision Notice issued on 26 June 2020.

6. LRB 504 – NOTICE OF REVIEW, AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A DWELLINGHOUSE AT LAND AT ARDMACHRON, MEMSIE, FRASERBURGH – REFERENCE: APP/2020/0899.

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

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 Land at Ardmachron, Memsie, Fraserburgh – Reference: APP/2020/0899.

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 to identify the group of dwellinghouses and the site in relation to the agricultural buildings 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 four valid representations had been received during the consultation period, and the material issues raised within those representations were:

- There are only four houses, not five houses as claimed in the agent's statement at Ardmachron.
- The development would have further impact on the existing poorly maintained private single track used by many farm vehicles and the existing houses at Ardmachron; and
- The area was not fit for further new houses to be built due to strains to access road, low water supply pressure, bin storage, and safe area for walking and lack of transport.

Further to consultations undertaken, it was reported that Developer Obligations had confirmed that Rathen Primary School and Fraserburgh Academy were currently operating within capacity and the proposed development would not engage the Developer Obligations and Affordable Housing policies or associated supplementary planning guidance of the Aberdeenshire Local Development Plan 2017; Contaminated Land had made a holding objection to the application pending the submission of further details by the applicant's agent on the previous agricultural use of the site; Roads Development had no objection to the proposal subject to conditions as the development would take access via a private road which was not maintained by the Roads Authority. Roads Development stated that granting the development would result in an increase in usage and there may be an increased liability on those responsible for the maintenance of that private road. They also confirmed that granting the development would make it the fifth property that the access track serves, and any future development would require the road to be built to a fully adoptable standard. Scottish Water had no objection to the proposal, however they did however state that there was no public water and wastewater infrastructure within the vicinity of this proposed development and the applicant was advised to investigate private options.

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 dwelling house 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.

- (3) The proposed development fails to comply with Policy P4 Hazardous and potentially polluting developments and contaminated land of the Aberdeenshire Local Development Plan 2017, in that insufficient information has been provided for Infrastructure Services (Contaminated Land) to assess potential land contamination of the site to ensure the suitability of the site for residential use.

The Local Review Body considered that the relevant policies as contained within the Local Development Plan 2017 were: Policy R1: Special rural areas; Policy R2: Housing and employment development elsewhere in the countryside; Policy P1: Layout, siting and design Policy P4: Hazardous and potentially polluting

developments and contaminated land; Policy C1: Using resources in buildings; Policy RD1: Providing suitable services and Policy RD2: Developers' obligations.

The Committee Officer then sought the Chair's permission to address the Local Review Body to let them know that there was some information (not in their agenda packs) which they may wish to consider prior to entering into the consideration of the review. The Committee Officer confirmed the administrative process which underpins the review process, which affords all consultees and interested parties the opportunity to consider the content of the applicant/agents review and which allows them to provide any additional comments within a window of 14 days. It was highlighted that during the consultation period for the review, no further representations had been received and the applicant/agent had been advised accordingly. Following that process, the Committee Officer received notification from the Planning Service (outwith the consultation period) that an objector to the proposed development had advised the Planning Service (not the Local Review Body) that they had submitted (by post) a further representation to the review to Woodhill House (within the 14 day window). The Committee Officer checked whether a valid submission had been received, however, nothing could be found.

The Committee Officer advised the Committee that she had received a copy of that representation (which the Planning Service had provided), and while she did not go into detail with regards to content of that submission (which the applicant/agent had not had a chance to comment on), it did raise some discrepancies or perceived inaccuracies which the objector had raised which related to the SAC labour requirement report which the applicant and agent had submitted as part of their review. The Local Review Body were asked to consider whether they wished to consider that additional information which had been received, and whether they wished to have sight of that before proceeding to determine the review.

Having considered that information, the Chair then asked the Local Review Body to consider whether there was now sufficient information before them, for members to consider the review without further procedure.

The Local Review Body took cognisance of the additional information that the Committee Officer had brought to their attention and they agreed unanimously that they would be minded to defer consideration of the Notice of Review to ensure that the applicant/agent would have sight of that additional response and that they would be afforded the opportunity to respond to that submission. As the Local Review Body had agreed to the submission of that additional information, they also considered whether any further information may assist them to determine the review.

The Local Review Body then determined that additional information they would also require to assist them in their determination of the review would be to seek further information related to the labour requirement for the site and to ask the applicant to provide information by way of a land holding map and a business identification number, or if available, the single application form which all farmers would be required to submit to the department of agriculture on an annual basis and to ask the applicant to provide a survey to assess any potential land contamination of the site and the suitability of that site for residential use when considering reason 4 for refusal.

The Local Review Body noted that should they ultimately determine to uphold the Notice of Review, that they would wish to impose a condition to deal with the matter of water supply to service the site.

After due consideration, the Local Review Body **agreed** to DEFER consideration of the Notice of Review, to allow them to follow further procedure, namely:

- (1) to **request** that the applicant/agent be afforded the opportunity to comment on the additional submission received from an objector, received in response to the Notice of Review.
- (2) to **request** that the applicant provide further information by way of a land holding map and a business identification number, or if available, the single application form which all farmers must submit to the department of agriculture annually.
- (3) to **request** that information to be provided by the applicant which relates to the final reason for refusal, a survey to assess land contamination of the site and the suitability for residential use; and
- (4) to **note** that when the review comes for determination by the Local Review Body, they would give consideration, if granted, to imposing a condition to deal with the matter of water supply to service the site.