

3. Minute of the Local Review Body Meeting of 18 December 2020.

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

SKYPE MEETING, FRIDAY, 18 DECEMBER 2020

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

Officers: Planning Adviser to the Local Review Body, (Senior Planner, 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 27 NOVEMBER, 2020

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 27 November, 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 REVIEW

5. LRB 505 – NOTICE OF REVIEW, AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION A DWELLINGHOUSE AND INSTALLATION OF AIR SOURCE HEAT PUMP AND ERECTION OF GARAGE AT LAND TO NORTH OF HILLVIEW, CRATHES, BANCHORY – REFERENCE: APP/2020/1118.

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 and Installation of an Air Source Heat Pump and Erection of a Garage at Land to North of Hillview, Crathes, Banchory – Reference: APP/2020/1118.

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 her presentation by reporting that one valid representation had been received during the consultation period, and the material issue raised within that representation was overlooking.

It was reported that one further representation had been submitted, in response to the Notice of Review, as presented on Pages 119 and 120 of the agenda pack, which reiterated their continued support for the decision taken by the Appointed Officer to refuse the application, on the grounds that the land in question had in their view returned to a naturalised state and was a wild habitat for nature. The objector also questioned the accuracy of the plans, the location of the water tanks and concerns over where access to the site would be taken.

The applicant/agent had responded to that submission, as presented on pages 112 – 131 of the agenda pack referring to the two previously granted applications APP/2013/2851 and APP/2015/2091 to highlight the history of the site and which reiterated their Notice of Review supporting statement, which had stated that there was evidence of previous development on the site and as such they considered the development would be meet the criteria for a brownfield land opportunity, with the site naturally forming a domestic curtilage. As the previous two applications had been granted, they were minded that while they were both extant, both had been approved and the original delegation to grant approval should withstand.

Further to consultations undertaken, it was reported that (Developer Obligations) have confirmed that contributions had previously been secured for the application under APP/2012/2851 and APP2015/2091 which would be applied to the current application, therefore no further contributions would be required; (Roads Development) had initially objected to the proposal, as the proposed driveway was not shown correctly, and they would be required to show where the waste collection

bin and bin storage area would be located, to ensure that it would be out with the visibility splay with the A957, however, a revised site location plan was submitted which was sufficient to allow Roads Development to remove their objection subject to conditions in relation to off street parking for 2 cars; (Environmental Health) had confirmed that due to the proposed air source heat pump, a condition would be required in relation to the noise emissions resulting from the operation of the air source heat pump and (Scottish Water) had confirmed that they held no objection as there was sufficient capacity in the waste and water treatment works.

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 is not considered to be the remediation of a redundant brownfield land opportunity due to the naturalised nature of the site and contrary to Policy R2 Housing and Employment Development Elsewhere in the Countryside 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 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 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) There were no rights of way affecting the proposed site.
- (2) Developer contributions had been concluded with the 2013 application APP/2013/2851, therefore, no further obligations would be required for the site.
- (3) Boundary treatments had not been included in the 2013 or 2015 applications and any boundary disputes arising would not be an issue for the Planning Service, although there would be a reasonable expectation that all that information submitted with a planning application would be accurate.
- (4) As part of the Appointed Officers determination of the proposal, no tree survey had been sought from the applicant. If the Local Review Body were minded to grant the proposal, any impact on the trees could be mitigated by way of the application of conditions.

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 support the Appointed Officer's decision to Refuse Full Planning Permission considered that while the history of development at the site had seen two previous applications being granted in 2013 and 2015 (applications APP/2013/2851 and APP/2015/2091) they had been determined using the policy criteria contained within the previous Local Development Plan 2012. The interpretation of the policies contained within that plan and what could be considered as 'brownfield sites' was different when considering the current position with the existing Local Development Plan 2017 for which the application as presented before them should be determined. Those members concluded that the Appointed Officer had, in their view, determined correctly, that the site could not be considered as suitable for the re-development of a brownfield site as it was clear that there was no evidence of buildings on site and the site had become naturalised since the 2013 application had been approved. When determining an application 'de novo' those members determined that they had to consider the information as presented to them, and having acknowledged that both the 2013 and 2015 applications were now extant there was nothing material contained within the Notice of Review or supporting statement to overturn the Appointed Officer's decision.

Those who were minded to uphold the Notice of Review considered that the principle of development had previously been established as part of the 2013 and 2015 applications, (although now extant) and as such, there was, in their view material weight which should be afforded to the application to overturn the Appointed Officer's decision as land use had already been established.

Councillor Johnston, seconded by Councillor McKelvie, moved 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 20 August 2020.

Councillor Hutchison, seconded by Councillor Ingram, moved, as an amendment, to Uphold the Notice of Review, and to reverse the Appointed Officer's decision and Grant Full Planning Permission on the grounds that land use had already been established with significant weight attached to the two existing permissions (although extant) and the history of the site.

The members of the Local Review Body then voted:-

For the motion (4) Councillors Cassie, Gibb, Johnston and McKelvie.

For the amendment (2) Councillors Hutchison and Ingram.

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 20 August 2020.

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