

Planning and Environmental Appeals Division Decision Notice

Appeal Reference: PPA-110-2408

Planning Reference: APP/2020/2494

Planning Proposal: Erection of Dwellinghouse and Garage

Address: Site at Causeway Fold, Meikle Wartle, Inverurie, AB51 5AU

Summary of Decision:

The Reporter appointed to determine the appeal granted planning permission allowing the appeal and noted the following:

- Accepted that the proposal was contrary to Policy R2 of the LDP as permission had been granted for two dwellings already within the cluster of housing in the countryside with these houses having been erected.
- Despite noting that the proposal to erect a third house within this existing cluster within the current plan would strictly be contrary to Policy R2, found no significant harm in such a development.
- The Reporter agreed with the submission made on behalf of the appellant that it would effectively round off the existing development.
- Noted that in the absence of this development, a productive use for this land is unlikely to be found with a risk that the site lay vacant and unmaintained becoming an eyesore.
- The Reporter considered that there was no specific evidence that developer obligations in line with Policy RD2 were required and did not include this as a pre-requirement of permission.
- Considered that the proposal complied with all other relevant policies of the LDP.
- The Reporter imposed nine conditions on the grant of planning permission in line with those recommended by the Planning Service.

Policy Issues:

None.

Additional Points:

None.

Actions:

Note Decision and reason why appeal was allowed.

Decision by Mike Shiel, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2408
- Site address: Site at Causeway Fold, Meikle Wartle, Inverurie AB51 5AU
- Appeal by FGN Homes Limited against the decision by Aberdeenshire Council
- Application for planning permission no. APP/2020/2494, dated 9 December 2020, refused by notice dated 1 March 2021
- The development proposed: Erection of dwellinghouse and garage
- Application drawings: listed in schedule at the end of this notice
- Date of site visit by Reporter: 19 May 2021

Date of appeal decision: 8 June 2021

Decision

I allow the appeal and grant planning permission subject to the nine conditions listed at the end of the decision notice. Attention is drawn to the three advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issue in this appeal is whether the principle and nature of the proposed development are acceptable on the appeal site.
2. The development plan for this area comprises the Aberdeen City and Shire Strategic Development Plan 2020 and the Aberdeenshire Local Development Plan 2017 (ALDP). The proposed development does not raise any issues of strategic significance, and I am satisfied that it should therefore be assessed against the relevant provisions of the ALDP.
3. The appeal site, which extends to about 0.15 hectares, comprises a roughly rectangular area of unused land at the southern end of a line of modern detached houses on the west side of the B9001 road. The neighbouring houses to the north are part of a larger group of largely modern detached houses at this location.
4. In February 2019 planning permission was granted for the house immediately to the north of the current appeal site, which was included as part of the garden ground for that house. According to the appellant's submissions, on the sale of the plot to the north the owner wanted a smaller area of garden, so the appeal site was fenced off and left undeveloped. The present proposal is for the erection of a detached, 1½ -storey house,

with an attached garage. The size and design of the house would be similar to that of the adjacent house and others to the north.

5. The key development plan policy in this case is ALDP policy R2. This policy, amongst other things, allows certain development proposals in the Rural Housing Market Area (RHMA), including small-scale additions to an existing cluster or group of at least five houses which is of a scale and character that is in keeping with that cluster or group. No more than an additional 20% growth of the cluster, up to a maximum of 2 new homes, will be permitted under this policy during the plan period.
6. The council accepts that the group of houses to the north-east and north-west of the appeal site forms a cluster of 14 dwellinghouses in the RHMA, and that the principle of allowing no more than two additional houses within the plan period can therefore be supported. However, since the 2017 ALDP was adopted, permission has been granted for two houses, on sites to the north of the appeal site, and these houses have been built. Consequently the capacity for additional houses at this locality has been utilised. The development of the appeal site would therefore be contrary to policy R2 and, thus, to the development plan.
7. For the appellant it is submitted that it was intended to bring this site forward for development once the new local development plan had been adopted, anticipating that this would allow further capacity for additions to this group of houses during the new plan period. However the Proposed Aberdeenshire Local Development Plan 2020 would no longer support the erection of a house on this site, which would fall within the Accessible Housing Market Area, where there is no policy support for the extension of an existing cluster of houses.
8. In the circumstances, I find that the proposal would be contrary to policy R2 of the adopted ALDP. It would also not be supported by the emerging local development plan.
9. With regards to other relevant development plan policies, the council has raised no objections to the development in relation to its layout, siting and design in terms of policy P1. I agree with that assessment. The design of the proposed house would complement those already built to the north. Although it is suggested in one of the representations received that the access serving this group of houses should be upgraded, as it would serve seven dwellings, the council's Roads Services have raised no objections, noting that the access which has already been formed is acceptable and that visibility is sufficient when leaving the site onto the B9001. The development can be connected to the public water supply. Foul and surface water would be disposed of by a private drainage solution, and a drainage report was submitted with the application. The council has raised no objections to the development in relation to policy RD1 (Providing suitable services). It also considers that an energy statement could be secured through a suspensive condition, if permission were to be granted, to ensure compliance with policy C1 (Using resources in buildings).
10. However, taken overall, I conclude that the proposal would not be in accordance with the development plan. It therefore remains to consider whether there are any material considerations that have a bearing on the determination of this appeal.
11. 25 representations were made to the original planning application, all but one of which support the development; although I note that many of these come from people who

do not live in the immediate vicinity of the appeal site . They consider that the proposed house would complete the adjacent group of houses on the west side of the B9001, and that its design would be in keeping with those houses. They fear that, as the land is no longer suitable for agriculture, it would be left to become overgrown and unsightly. The one representation which objects to the development is concerned with the loss of the view from an existing house on the opposite side of the B9001, and issues relating to traffic speed and noise.

12. Whilst I appreciate that the erection of a further house on the west side of the road would further restrict the open view towards Bennachie, the loss of a private view is not generally regarded as a material planning consideration. At my site inspection I noted that traffic speeds on the adjoining straight section of the B9001 seemed fairly high. However, as I have indicated above, the council's Roads Services have raised no objections to the development. Whilst I can understand that a reduction of the speed limit on this section of the road to 40 mph might be desirable, this is a matter for the council, as roads authority, to give consideration to in relation to its policies on such matters.

13. Returning to the arguments in favour of the proposal, I agree with the suggestion that it would effectively round off the existing development on the west side of the road. The council has suggested that, as the site already has planning permission for use as garden ground for the neighbouring house, it could be used for that purpose. However, it is apparent that the owner of that house does not want the land, which has been fenced off from its garden. In the absence of this development, I consider it highly unlikely that a productive use could be found for the appeal site, with the consequent risk that it would lie vacant and unmaintained, thus becoming a potential eyesore in the longer term.

14. Whilst I accept that the erection of a third house within this existing cluster within the period of the current plan would strictly be contrary to policy R2, I can find no significant harm in such a development. It would not spread development into the surrounding countryside as there is already a modern house further to the south, together with another modern building, which appears to be in commercial use, on the east side of the B9001. I do not consider that granting approval in the circumstances of this case would create a precedent, as each case needs to be considered on its own merits. In any event, it seems probable that the policy for the erection of new houses in the rural parts of Aberdeenshire is likely to be tightened up in the emerging local development plan.

15. In all the circumstances, I conclude that the material circumstances in this case justify granting planning permission, notwithstanding that the proposal would be contrary to the development plan. The council has recommended that nine conditions should be imposed if planning permission is to be granted. I have adopted those conditions with some minor modifications. The council has made no recommendation in relation to the need for a developer contribution in terms of ALDP policy RD2, but its Report of Handling confirms that contributions have been agreed towards the provision of extra capacity at Meldrum Academy. It is unclear to me how those contributions have been made, and whether they refer to the permission for the house on the adjoining site. However, in the absence of any specific evidence about the need for such a contribution, I have not included it as a pre-requirement of permission.

Overall conclusion

16. I therefore conclude, for the reasons set out above, that while the proposed development does not accord overall with the relevant provisions of the development plan, granting planning permission is justified by the fact that it would round off the existing housing development on the adjoining land without causing any harm to the character of the area or surrounding countryside. I have considered all the other matters raised, but there are none which would lead me to alter my conclusion.

M D Shiel

Reporter

Conditions

1. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- a) existing and proposed finished levels;
- b) the location of new trees, shrubs, hedges and grassed areas;
- c) a schedule of planting to comprise species, plant sizes and proposed numbers and density;
- d) the location, design and materials of all hard landscaping works including walls, fences, and gates; and
- e) a programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape, in the interests of the visual amenity of the area.

2. No works in connection with the development hereby approved shall commence unless details of the refuse bin uplift store areas have been submitted to and approved in writing by the planning authority. The areas shall be constructed behind any visibility splay and shall be designed so as to be accessible for refuse bin uplift and to prevent empty bins from being windblown. The dwellinghouses shall not be occupied unless the refuse bin uplift store areas have been provided and surfaced in accordance with the approved details. Once provided, the refuse bin uplift store areas shall thereafter be permanently retained as such.

Reason: To ensure the provision of an appropriate means of servicing in the interests of road safety.

3. The dwellinghouse hereby approved shall not be erected unless an Energy Statement applicable to that dwellinghouse has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:

- a) full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development; and
- b) calculations using the SAP or SBEM methods which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2017.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: to ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

4. No development in connection with the permission hereby granted shall commence unless visibility on the access from the B9001 road of 160 metres in both directions along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved new access in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter, and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

5. The dwellinghouse hereby approved shall not be occupied unless its driveway, turning and parking area has been provided and surfaced in accordance with the details shown on the approved plans. Once provided, all parking and turning areas shall thereafter be permanently retained as such.

Reason: To ensure the timely completion of the driveway to an adequate standard to prevent the carriage of loose driveway material on to the public road in the interests of road safety.

6. The development hereby approved shall not be occupied unless off-street parking for 3 cars surfaced in hardstanding materials has been provided in accordance with the details shown on the approved plans. Once provided, the approved parking shall thereafter be permanently retained as such.

Reason: To ensure the timely completion of the parking to an appropriate standard and to ensure the retention of adequate off-street parking facilities within the site, all in the interests of road safety.

7. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and

welfare of the occupants and visitors to the site.

8. The dwellinghouse hereby approved shall not be occupied unless the proposed foul and surface water drainage systems have been provided in accordance with the Drainage Report prepared by Colin Thompson Chartered Architect dated November 2020 (ref. 2240 – 020). The foul and surface water drainage systems shall be permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order amending, revoking or re-enacting that Order, no means of enclosure, other than that approved under condition 1 shall be erected on the site under the terms of Class 3E of Schedule 1 to that Order without an express grant of planning permission from the planning authority.

Reason: In the interests of the character and appearance of the development.

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Application drawings

RB20019/01	Elevations and floor plan
RB20019/02	Sections and floor plan
RB20019/03	Proposed site plan
RB20019/04	Proposed site sections
RB20019/05	Sections and foundations plan
RB20019/06	Sections
RB20019/DR1	Existing site plan
RB20019/DR2	Existing site sections