

3. Minute of the Local Review Body Meeting of 28 May 2021.

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

SKYPE MEETING, FRIDAY, 28 MAY, 2021

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

Officers: Legal Adviser to the Local Review Body (Senior Planner, James Wheater); Legal Adviser to the Local Review Body, Senior Planner, Sheena Lamont), Legal Adviser to the Local Review Body (Principal Solicitor, Arlene Gibbs) and Committee Officer (Frances Brown).

1. DECLARATION OF MEMBERS' INTERESTS.

The Chair asked members' if they had any interests to declare in terms of the Councillors' Code of Conduct.

- (1) Councillor Ingram declared an interest in Agenda Item 5 (LRB 509), by virtue of having not taken part in that item, when it had previously been considered at the Local Review Body meeting of 29 January 2021, therefore he concluded that he would withdraw from proceedings when that review was being determined.
- (2) Councillor Johnston declared an interested in Agenda Item 5 (LRB 509), by virtue of the application site being within his ward and he knew the applicant. Councillor Johnston concluded that he would withdraw from proceedings when that review was being determined.

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 APRIL, 2021

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 30 April, 2021. 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 509 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLING HOUSE & GARAGE AT LAND ADJACENT TO BRAESIDE FARM, TARVES – REFERENCE: APP/2020/0829

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

With reference to the Minute of the Local Review Body meeting of 29 January 2021 (Item 9), 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 namely:

- (1) to **request** that the applicant/agent provide Proof of Landownership of the site.
- (2) to **request** that the applicant/agent submit a copy of the single application form which must be submitted to the Department of Agriculture each year; and
- (3) to **request** that the applicant/agent submit a Scottish Agricultural College, Labour requirement report.

There had been circulated, the additional information requested by the Local Review Body, as presented on Pages 28-55 of the agenda papers. The Local Review Body then resumed consideration of the Notice of Review, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission, for the Erection of a Dwellinghouse and Garage at Land Adjacent to Braeside Farm, Tarves – Reference: APP/2020/0829.

The Planning Adviser introduced the Notice of Review, and provided the Local Review Body with an overview of the application as presented at the initial meeting of 29 January 2021, and a recap of the Appointed Officer's reasons for refusal, namely: -

- (1) The Planning Authority considered that the application was for a development that was not in accordance with the Aberdeenshire Local Development Plan 2017. The proposed development was contrary to Policy R2: Housing and employment development elsewhere in the countryside as contained in the Aberdeenshire Local Development Plan 2017. While the dwellinghouse would be situated in the immediate vicinity of the place of work for a farm

worker within the countryside and the applicant had established that it would be essential to have a worker on site due to the labour requirement to care for the livestock, there was suitable alternative accommodation available within the ownership of the farm business at Braeside farm, within 60 metres of the application site, at the former mill site that achieved planning permission in 2019 for a replacement house (ref APP/2018/2403). As such the applicant should utilise the redevelopment opportunity at the former mill site to accommodate a farm worker.

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 C1: Using resources in buildings; Policy RD1: Providing suitable services; Policy RD2: Developers' obligations and the Proposed Aberdeenshire Local Development Plan 2020.

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 that there was no evidence on site of the two redundant cottages which had been cleared from site. During their site visit there was only evidence of compacted earth.

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.

The Local Review Body agreed that the main determining issues for the Notice of Review, as presented before them, was the principle of development and the impact on the character and amenity of the surrounding area.

During discussion, opposing views were expressed.

One member of the Local Review Body was minded to uphold the Notice of Review and to grant Full Planning Permission, as they considered that the principle of development had already been established on the site, which was supported by the extant planning permission APP/2018/2403 which had been approved as the replacement of dwellinghouse on the former mill site to accommodate a farm worker. While that permission had lapsed (seven months past the deadline), it was considered that more weight should be afforded to that previous planning permission.

Those who were minded to support the Appointed Officer's decision to Refuse Full Planning Permission, took the view that the extant planning permission for APP/2018/2403 was material to their decision making, as the applicant had previously been granted planning permission to utilise the former mill site and remove the derelict cottages to allow for a replacement building on the grounds of the labour requirement. A redevelopment opportunity was still therefore available to

the applicant to provide suitable accommodation for a farm worker at Braeside Farm on the former mill site.

When considering the proposal before them they considered that the two former derelict cottages had been removed from the site and there was no longer visible evidence of those structures and the land was now overgrown, therefore the current proposal could no longer be considered as the remediation of a redundant brownfield opportunity in compliance with Policy R2.

After due consideration, the Local Review Body **agreed**, by a majority, to Uphold the Appointed Officer's decision to REFUSE Full Planning Permission, for the reasons contained in the Decision Notice, issued on 19 October 2020.

NEW REVIEWS

6. LRB 520 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION (RETROSPECTIVE) FOR ALTERATIONS TO BUILDING FRONTAGE AT 6 HIGH STREET, FRASERBURGH, ABERDEENSHIRE, AB43 9AN – REFERENCE: APP/2020/2313.

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

There had been circulated a Notice of Review and supporting documents by the applicant, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission (Retrospective) for Alterations to the Building Frontage at 6 High Street, Fraserburgh, Aberdeenshire, AB43 9AN – Reference: APP/2020/2313.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested (1) further written submissions, (2) one or more hearing sessions, (3) a site inspection and (4) 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 no valid representations had been received by interested parties during the consultation period, prior to determination.

Further to consultations undertaken it was reported that Environment - Built Heritage has commented that the previous shop frontage was not original, but a post war design incorporating two shades of blue glazed tiles, black metal shutters and a large vinyl fascia board which did not relate to the upper storey of the building or make a positive contribution to the wider streetscape. They had stated that the current configuration appeared to have simply replicated an unfavourable situation with the owner of the property cladding the exterior walls of the ground floor with grey fibre cement boards. As such they considered that the retrospective development undermined the principal objectives of the Fraserburgh 2021 project but also the enhancement works carried out by other property owners who had

reinstated traditional fittings and finishes.

The Local Review Body were asked to note that a condition for receiving financial support from the National Heritage Lottery Fund and Historic Environment Scotland was that planning decisions on future development should accord with local plan policies and the guidance set down in the Fraserburgh Town Centre Conservation Area Management Plan and non-compliance of that condition would result in not only the financial support being withdrawn from the two agencies, but also the local authority receiving unfavourable outcomes when seeking fiscal support to undertake future environment enhancement projects.

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

- (1) The proposal fails to comply with Policy P1 Layout, siting, and design as contained in the Aberdeenshire Local Development Plan 2017, in that the design of the development fails to acknowledge the original character of the building and shopfront and fails to demonstrate that the current frontage of the restaurant is a distinctive, pleasant, welcoming, and adaptable shopfront that is appropriate to the streetscape and the Conservation Area.
- (2) The proposal fails to comply with Policy HE2 Protecting historic and cultural areas as contained in the Aberdeenshire Local Development Plan 2017, in that the development with poor design and non-traditional materials has a detrimental impact on the character and appearance of the Fraserburgh Conservation Area.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy P1: Layout, Siting and Design and Policy HE2: Protecting historic and cultural areas.

Other material considerations were Fraserburgh Town Centre Conservation Area Appraisal, including Conservation Area Management Plan; Fraserburgh Shopfront Design Guidance and Historic Environment Policy for Scotland (HEPS) and associated policy and guidance.

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

In response to questions raised, the Planning Adviser confirmed:

- (1) A condition of the funding provided by the funders for Fraserburgh 2021 was whether decisions made on planning applications, within the area by the Local Authority, were made in accordance with the Council's Policy, the Conservation Area Management Plan and associated guidance.
- (2) Fraserburgh Shopfront Guidance should be considered as Planning Advice and that was published advice and was freely available in the public domain.

- (3) Similar cladding did seem to have been recently installed on the adjacent property at No 2, however, that installation did not appear to benefit from Planning Permission.
- (4) Each review should be considered on its own merits in respect of policy matters raised and the Local Review Body should avoid comparisons with other decisions made by the Council and other alleged breaches on different properties, which varied in terms of the timing and nature of the review before them.
- (5) The material used to clad the property was not one which accorded with the relevant guidance, or which could be considered sensitive to the historic environment in that particular context.

The Local Review Body considered that they did have enough information before them and proceeded to determine the Notice of Review.

The Local Review Body considered that the main determining issues for the Review, as presented before them was whether, by virtue of the design and materials utilised on the shop front of No 6, the proposal would accord with policies P1: Layout Siting and Design and Policy HE2 Protecting historic and cultural areas and, if the proposal was not considered to accord with those policies, whether there were any material considerations which could warrant a departure from those policies.

The Local Review Body considered the case as set out by the applicant regarding the history of the building; the grant funding offered by the Conservation Area Renewal Scheme (Fraserburgh 2021) and the reasons for that, and the previous design granted under permission APP/2017/2977 which had not been implemented. The Local Review Body also considered the additional matters relating to other alleged breaches of planning and decisions made by the Council in relation to other properties within the area.

During discussion the Local Review Body considered whether the existing frontage would, in their view, preserve or enhanced the character of the Conservation Area while also acknowledging that the previous restaurant frontage was also non-traditional. Having taken all the information before them into account, the Local Review Body determined that the development before them was not in their view of a high quality and did not meet the requirements of either Policy HE2 to preserve and enhance the quality of the Conservation Area nor utilise materials of the highest quality.

The Local Review Body also supported the views of the Appointed Officer that the proposal would not comply with Policy P1 in that the design of the proposal was not distinctive, pleasant, welcoming, and adaptable.

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 19 March 2021.