

APPEAL DECISION (LRB)
Appeal Reference
LRB 509
Planning Reference
APP/2020/0829
Planning Proposal
Full Planning Permission for Erection of Dwellinghouse & Garage, Land Adjacent to Braeside Farm, Tarves, AB41 7NN,
Summary of Decision
<p>The LRB agreed with the decision and refused full planning permission for a house in the countryside within the rural housing market area.</p> <p>The LRB was informed that the site has been cleared and rough grassland re-established to varying density across the site. The landform appeared to be consistent with the landform nearby and did not appear to have been built up.</p> <p>The LRB considered the case set out by the applicant regarding earlier planning history and the need for accommodation for an agricultural worker. The LRB considered that weight should be given to the planning history but felt, on balance, that the site should only be considered as it was at the time of the application. It was also noted that a nearby site with planning permission for a house, within the ownership of the farm business, addressed the applicants need for accommodation for a farm worker</p> <p>The LRB unanimously agreed to uphold the appointed officer's decision to refuse full planning permission.</p>
Policy Issues
The LRB gave more weight to what as on site at the time of the application over the planning history.
Additional Points
N/a
Actions
Note Decision

Aberdeenshire Council Local Review Body

Reference LRB 509 APP/2020/0829

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Land Adjacent to Braeside Farm, Tarves, AB41 7NN
- Application for review by Douglas Shand, Shand Building Design Limited on behalf of Mr J Sleigh against the decision by an Appointed Officer.
- Application reference APP/2020/0829 for Full Planning Permission for Erection of Dwellinghouse & Garage refused by Decision Notice dated 21 September 2020.
- Application drawings: Reference Number: 1978-01 Version 1 Elevations, Sections & Floor Plans; Reference Number: 1978-02 Version 1 Site Sections, Site & Location Plans
- No site inspection took place.

Date of Decision: 2nd September 2021

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 first meeting held on 29 January 2021. The LRB was attended by Councillors J Hutchison (Chair), R. Cassie, P Gibb and A McKelvie. After due consideration, the Local Review Body agreed to DEFER consideration of the Notice of Review to allow further procedure by way of seeking additional information from the applicant. This further information was (1) proof of land ownership of the site (2) a copy of the single application form which must be submitted to the Department of Agriculture each year and (3) a Scottish Agricultural College, Labour Requirement Report. The LRB resumed consideration of the Review at its meeting held on 28 May 2021. The LRB was attended by Councillors J Hutchison (Chair), R Cassie, P Gibb, and A McKelvie.

1.3 The LRB was shown projected plans and photographs by the Planning Adviser. Those showed the application site and its relationship to the surroundings.

2.0 Proposal

2.1 The application was for Full Planning Permission for the development of a single modern dwellinghouse that would have been one and half storey, with traditional proportions, measured 13.5 metres by 3.1 metres and 7.7 metres to ridge height. A detached double garage was included in the application and measured 10 metres by 7.6 metres.

2.2 The site was located to the north of the Braeside Farmhouse and steading. The site has agricultural fields to the north, east and west, and access to the site was to be taken from the Cairnbrogie Public Road to the west of the site, along the farm access track to Braeside Farm. It was proposed to connect to the public water supply and provide a sewage treatment plant, with discharge to land via soakaway. A separate soakaway was proposed for the disposal of surface water within the site.

2.3 The documents submitted as part of the planning application were:

- Soakaway Certification for foul and surface water;
- Labour Requirement;
- Design Statement.

2.4 Relevant planning history relating to the site was:

- APP/2016/1979 - Planning Permission in Principle for erection of two Dwellinghouses, Approved 27 October 2016.
- APP/2018/2403 - Full Planning Permission for the erection of a Dwellinghouse, Approved 14 August 2019.

2.5 The site lies within Aberdeen Housing Market Area and Countryside and therefore Policy R2 Housing and employment development elsewhere in the countryside applies. The previous Planning Permission in Principle (APP/2016/1979) was for the erection of two dwellings to replace derelict cottages existing at the time and that permission was subject to conditions. The derelict cottages had been demolished, removed and the land effectively cleared.

2.6 There had been no representations received in response to the application however a number of consultations had been carried out as part of the application. Aberdeenshire Council's Business services had advised that Heads of Terms had been agreed for Planning obligations and that payment had been made in full. Other consultees had not raised any issues that would not otherwise be addressed through the use of planning conditions.

3.0 Reasoning

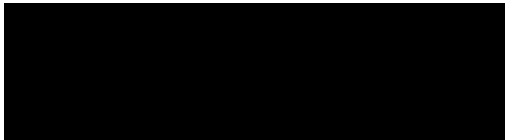
- 3.1 The main determining issue for the Review was whether the proposed development met Policy R2 Housing and employment development elsewhere in the countryside.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policies, and these were as follows:

Policy 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; and
Policy RD2: Developers' obligations.
- 3.3 At its meeting on 28 May, 2021, the Local Review Body considered the additional information it requested and agreed that it now had enough information before it and proceeded to determine the Notice of Review.
- 3.4 In response to questions raised, the Planning Adviser confirmed that, although the ground was compacted in some areas, there was no visible evidence of the earlier buildings within the site, and the site had been effectively cleared and rough grassland re-established to varying density across the site and brownfield land remediation not considered necessary. The landform appeared consistent with landform nearby and did not appear to have been built up.
- 3.5 The LRB gave consideration to the case set out by the applicant regarding the earlier planning history of the site, and the need for agricultural worker accommodation, supported by the further information requested by the LRB and submitted by the applicant.
- 3.6 During discussion, the LRB considered what weight might be given to the planning history of the site but felt, on balance, that the site should only be considered as it was at the time of the application. The confirmation that the Full Planning Permission for a Dwellinghouse, permitted through APP/2018/2403, was within the ownership of the farm business also addressed the issue on availability of alternative accommodation for a farm worker.
- 3.7 In the circumstances, and in the absence of any other over-riding material considerations, the LRB unanimously agreed to UPHOLD the Appointed Officer's decision to REFUSE Full Planning Permission, for the reasons contained in the Decision Notice dated 21 September 2021.

4.0 Reasons for refusal

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

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. 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 has established that it would be essential to have a worker on site due to the labour requirement to care for the livestock, there is 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.



Karen Wiles
Head of Legal and People

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.