

<b>APPEAL DECISION (LRB)</b>
<b>Appeal Reference</b>
LRB 519
<b>Planning Reference</b>
APP/2020/1533
<b>Planning Proposal</b>
Erection of Dwellinghouse (PPP) Site to East of Dunvaroch, Everton of Auchry, Turriff, Aberdeenshire
<b>Summary of Decision</b>
<p>The site and its surroundings were the subject of an extensive planning history. Notwithstanding this, the development was proposed to be an addition to an existing cluster of 5 or more houses within the Rural Housing Market Area.</p> <p>This was dismissed as the buildings on site were unrelated with no locational relationship. In particular, Everton House was on the opposite side of a main road, behind a tree belt, and Muirfield was over 210m from the nearest plot, and over 150m from Everton of Auchry. Consequently, there was no cohesion between the five properties touted as being a 'cluster'.</p> <p>The proximity to an operational farm also gave rise to questions over the residential amenity that any dwellinghouse would enjoy on the site. Furthermore, the removal of redundant farm buildings (still on site) would result in a detrimental impact on the setting of a Listed Building. This was to be mitigated at the time of the (APP/2014/3122) application, but the necessary conditioned landscaping was never implemented.</p> <p>The LRB opted to partially uphold the appointed officer's decision to refuse full planning permission. It refused for the same reason as the appointed officer but included an additional two reasons.</p> <p>These include (under Policy P1) that "the development would not be able to deliver adequate amenity due to the close proximity of farm buildings and land in operational farm use." AND</p> <p>That the development would be contrary to Policy HE1 "as the development is likely to have a negative effect on the setting of a listed building."</p>
<b>Policy Issues</b>

Policy R2 Housing and employment development elsewhere in the countryside  
Policy P1 Layout, siting, and design  
Policy HE1 Protecting historic buildings, sites, and monuments

**Additional Points**

The previous application on the site (APP/2014/3122) for Full Planning Permission was implemented however three conditions remain to be discharged.

**Actions**

None.

**Note Decision**

## **Aberdeenshire Council Local Review Body**

**Reference LRB 519 APP/2020/1533**

### **Review Decision Notice**

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Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Site to the East of Dunvaroch, Everton of Auchry, Turriff, Aberdeenshire
- Application for review by John Wink Design on behalf of Mr & Mrs G. Chapman against the decision by an Appointed Officer.
- Application reference APP/2020/1533 for Planning Permission in Principle for Erection of Dwellinghouse refused by Decision Notice dated 05 January 2021.
- Application drawings: Reference Number: 1845-020 Version A Planning Permission in Principle.
- No site inspection took place.

Date of Decision: 2nd September 2021

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### **Decision**

The Local Review Body (LRB) partially agrees with the determination reviewed by it and refuses Planning Permission in Principle for the reasons 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 meeting held on 30 April 2021. The LRB was attended by Councillors J Hutchison (Chair), R Cassie, P Gibb, P Johnston, J Ingram 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 Planning Permission in Principle for the Erection of a Dwellinghouse.
- 2.2 The application site and red line boundary lay within garden ground serving the house called Dunvarroch, which was located to the west of the proposed dwelling site and in close proximity to the operational farm buildings of Everton of Auchry Farm which was located to the east and south east of the proposed site.
- 2.3 Everton of Auchry Farmhouse, which is located approximately 80m south of the proposed site, and is a Category C Listed Building. The intervisibility of the proposed site was, at the time of the Review, limited by the presence of the large farm building to the west side of the steading. Those buildings had not been identified on the applicant's plans and were a relevant consideration in terms of the sites planning history, being subject of a previous planning application.

The eastern boundary of the proposed site was located beside a farm track and working farm. This boundary has not been defined on the ground and during the site visit there was clear overspill from the farm operations into what is the garden ground serving Dunvarroch. What might be identified as the boundary lies approximately 8 to 9 metres from the 'existing farm buildings'. That was estimated because the plan submitted by the applicant did not accurately reflect the position on the ground.

- 2.3 The documents submitted as part of the planning application were:
- Drawing Reference Number: 1845-020 Version A Planning Permission in Principle
  - Certificate for Proposed Foul Water Sub-Surface Soakaway – John Wink Design (20 November 2020)
  - Supporting Statement – John Wink Design (13 August 2020).
- 2.4 There was a significant planning history relating to the site and the adjacent Everton of Auchry Farm. Those most pertinent to this site were ENQ/2018/0675, APP/2014/3122, and APP/2013/3766. The enquiry sought advice regarding the acceptability on the erection of dwellinghouse, and response was *“that the proposal “may be considered” to contribute towards an existing cluster of 5 or more properties within the Rural Housing Market Area, as long as those properties are within the vicinity of the site and “are considered to connect to one another through built form and/or mature landscaping features”*. The planning applications relating to the site are APP/2014/3122 for Erection of Replacement Dwellinghouse, Full Planning Permission (Granted October 2014) with conditions. This 2014 application was for a much larger plot compared to the earlier Planning Permission in Principle given for APP/2013/3766 for the Erection of Dwellinghouse. Both applications were proposed as replacement dwellings associated with the demolition of two

Agricultural Buildings on the west side of the farm steading. These buildings remain in situ at the time of the review. Should these buildings once again be considered redundant and be removed as was previously advised in support of APP/2014/3122, then the proposed site would impact the Category C Listed Building south of the site. The APP/2014/3122 application proposed to visually separate the two properties, by the introduction of strategic landscaping on the south and eastern boundaries of the site, and a planning condition was attached to the planning permission to reflect this.

The need for a larger plot promoted through the APP/2014/3122 planning application (compared to the earlier 2013 application) was accepted at the time because of concerns raised by the same applicant / agent regarding the safety and amenity of future residents due to the proximity of the new dwelling to a working farm and also to accommodate significant landscaping within the site. Landscaping was proposed on the eastern and southern boundaries, and an extended garden area proposed as necessary to provide for children's play, given the absence of nearby public parks / play areas.

- 2.5 No representations were received on this application. Consultations carried out resulted in no objections or concerns. Business Services advised that no contributions were required in order for meet Policy RD1: Developers Obligations to be met.

### **3.0 Reasoning**

- 3.1 The site lies within the Countryside and within the Rural Housing Market Area. The main determining issue for the Review was whether the proposed development met Policy R2 "Housing and employment development elsewhere in the countryside" of the Aberdeenshire Local Development Plan 2017 as set out in the Appointed Officers Decision. In addition to the consideration of this principle in planning policy, the Planning Adviser, within their remit to the Local Review Body, informed members that in her opinion Members should also consider the following additional matters in respect of the proposal's compliance with the development plan:

- 1) Whether, due to the relevant planning history of the site, and the proximity to an operating farming, the proposal provided adequate amenity for a dwelling as considered under the terms of Policy P1 Layout Siting and Design; and
- 2) Whether, by virtue of the relevant planning history and the fact that the redundant farm buildings (although not yet removed) but that their removal would affect the setting of a listed building raising the issue as to whether the proposal complied with Policy HE1 Protecting historic buildings, sites, and monuments. The 2014 application identified the need to visually separate the 2 properties, with strategic landscaping to the south and eastern boundaries of the development site; a planning condition on the planning permission reflected this.

3.2 The Local Review Body considered that the Appointed Officer had correctly identified the relevant policies, as contained within the Local Development Plan 2017 and those were:

Policy R2 Housing and employment development elsewhere in the countryside;  
Policy P1 Layout, siting and design;  
Policy E2 Landscape;  
Policy HE1 Protecting historic buildings, sites, and monuments;  
Policy PR1 Protecting important resources;  
Policy C1 Using resources in buildings;  
Policy RD1 Providing suitable services; and  
Policy RD2 Developers' obligations

3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful but agreed they had sufficient information before them to proceed to determine the Notice of Review.

3.4 In response to questions raised, the Planning Adviser confirmed:

- (1) The original application in 2014 (APP/2014/3122) was for Full Planning Permission, following the Planning Permission in Principle (APP/2013/3766) for a replacement dwelling to replace farm buildings in the farm operation at Everton of Auchry. The Full Planning Application for the larger site was granted permission with conditions attached, however, three of those conditions had not been discharged.
- (2) One of those conditions that had not been discharged related to boundary landscaping to address amenity concerns for future residents. Residential amenity for a further dwellinghouse close to farming activity may be difficult to achieve given the limited land available landscaping/screening.
- (3) Were the application to be granted, it would remove the possibility of fully implementing the conditions attached to the 2014 Full Planning Permission.

3.5 The Local Review Body considered that the main determining issues for the Notice of Review as presented before them, was whether the principle of development could be established against Policy R2 with the only criterion which may apply, being whether it could be demonstrated that the site could be accommodated as part of a cluster of five or more residential properties within the Rural Housing Market Area and the layout and character would be in keeping with that cluster.

3.6 During discussion, the Local Review Body were unanimous in their view, that it was clearly evident, from the drawings and the layout, that the proposal would not be an addition to a cluster of five dwellinghouses as the distances and buildings were unrelated, with no locational relationship. Everton House was on the opposite side of the main road, behind a tree belt and Muirfield was situated 210m from the nearest plot and over 150m from Everton of Auchry. As both properties were not located to, or related to other properties mentioned, it could

not be considered as an existing cluster of five dwellinghouses, in compliance with Policy R2.

- 3.7 The Local Review Body then considered the Appointed Officer's decision to refuse the application which had been based on a single reason for refusal relating to Policy R2. When considering all of the information before them, the Local Review Body agreed that the proposal would not, in their view, comply with Policy P1: Layout, siting and design or Policy HE1: Protecting historic buildings, sites, and monuments. Those additional policy reasons for refusal were based on the proximity of the proposed site to a working farm, and the potential impact of the proposed site on the setting of the Category C Listed Building that is the Everton of Auchry Farmhouse.
- 3.8 After due consideration, the Local Review Body agreed to dismiss the Notice of Review, and to Uphold the Appointed Officer's decision to REFUSE Planning Permission in Principle, for the reasons contained in the decision notice issued on 5 January 2021, with additional reasons for refusal, non-compliance with Policy P1: Layout, siting and design and Policy HE1: Protecting historic buildings, sites, and monuments.

#### **4.0 Reasons for refusal**

- (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 principle of development for the proposal cannot be established under Policy R2 Housing and employment development elsewhere in the countryside, on the basis that it does not meet any of the acceptable criteria for new development. While the proposal does attempt to demonstrate that it would constitute an addition to a cluster of five or more properties, it is considered that Muirfield and Everton House do not relate well to the other three properties identified, and therefore are not part of a cohesive grouping or cluster of five or more properties.
- (2) The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017, as it fails to comply with Policy P1 "Layout, siting and design" as the development would not be able to deliver adequate amenity due to the close proximity of farm buildings and land in operational farm use.

- (3) The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017, as it fails to comply with Policy HE1 “Protecting historic buildings, sites, and monuments” as the development is likely to have a negative effect on the setting of a listed building.



**Karen Wiles**  
**Head of Service (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.