

APPEAL DECISION (DPEA)
Appeal Reference
PPA-110-2424
Planning Reference
APP/2021/1002
Planning Proposal
Full planning permission for the erection of dwellinghouse at land adjacent to 36-40 Ferguson Street, Fetterangus
Summary of Decision
<p>Appeal lodged against decision to refuse planning permission at. The Reporter dismissed the appeal.</p> <p>The Reporter noted no existing capacity for houses under Policy R2 organic growth for Fetterangus. The Reporter also in recognising the organic growth element of R2 agreed that the cohesive group, or cluster of existing houses, does not apply.</p> <p>The Reporter agreed that the trees along the southern boundary would impact on the amenity of future occupants should the application be granted, and that the application had failed to demonstrate that there would not be an adverse impact. Thus, the application was contrary to Policy P1.</p> <p>The Reporter agreed that the application was contrary to Policy RD1, as the road would not be to standard, and approval would remove the requirement of the turning area reserved as part of an earlier application for the two houses to the west of the appeal site.</p> <p>The Reporter noted that the failure to demonstrate adequate surface water drainage arrangement is contrary to policy RD1.</p> <p>The appeal decision was determined under the prevailing local plan policies contained within the Aberdeenshire Local Development Plan 2017.</p>
Policy Issues
Contrary to Policy R2 Housing and employment development elsewhere in the countryside, Policy P1 Layout, siting and design, and Policy RD1 Providing suitable services.
Action
Note Decision



Appeal Decision Notice

Decision by Tammy Swift-Adams, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2424
- Site address: land at 36-40 Ferguson Street, Fetterangus, Aberdeenshire, AB42 4HD
- Appeal by Ian Clark against the decision by Aberdeenshire Council
- Application for planning permission APP/2021/2002 dated 5 May 2021 refused by notice dated 15 September 2021
- The development proposed: erection of dwellinghouse
- Date of site visit by Reporter: 15 February 2022

Date of appeal decision: 30 March 2022

Decision

I dismiss the appeal and refuse planning permission.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this instance includes the Aberdeen City and Shire Strategic Development Plan, 2020 (SDP) and the Aberdeenshire Local Development Plan, 2017 (LDP). As no SDP policies directly relate to this proposal, I have focussed my assessment on the adopted LDP.
2. Having regard to the provisions of the LDP the main issues in this appeal are whether the principle of building the proposed house in the countryside is established and, if so, whether its landscape character and amenity impact, and the provision of services, would be acceptable; or, if not, whether the proposal could be justified otherwise. Accordingly, I have principally considered LDP policies R2 (housing and employment development elsewhere in the countryside), P1 (layout, siting and design), E2 (landscaping) and RD1 (providing suitable services).

Proposed development, appeal site and surroundings

3. The appeal relates to a small greenfield site approximately 23 metres south west of the Fetterangus settlement boundary. There are single-storey houses to the north, east and west. A burn and trees form its southern boundary, with farmland beyond. The land slopes towards the burn. There is a residual area of grassland between the appeal site and the rear gardens of two houses on Chalmers Place to the east.
4. The appeal proposal comprises a single-storey, t-shaped dwellinghouse with grey roof tiles and buff-coloured harled walls. A garage wing would project north from the main part of the house with the principle rooms arranged across the southern elevation. The

entrance would be in the west elevation. Access would be via a private track leading off Ferguson Street (the main road running through the village).

Principle of development in the countryside

5. As the appeal site is outside the Fetterangus settlement boundary it is classified as countryside. Policy R2 sets out the exceptional circumstances in which new homes in the countryside may be supported. It allows for the small-scale growth of Fetterangus but restricts this to 10 new homes within 200 metres of the settlement boundary during the plan period. Submissions show there are already extant permissions in place for 11 new homes for Fetterangus. The allowance under this part of the policy is therefore fully accounted for.

6. The appellant suggests that, with 11 homes permitted against a policy limit of 10, there must be some scope for flexibility. However, I do not consider it right that the policy limit having been flexed once should weaken the council's ability to continue managing settlement growth. Nor do I consider customer demand for houses of the type proposed to be sufficient reason to override the development plan.

7. I note that some of the appellant's submissions refer to the appeal land as a gap site, and to the surrounding homes as a cohesive group of five existing houses. Another part of policy R2 provides for small-scale additions to existing groups or clusters of up to five houses. However, the council indicates the settlement growth and cluster provisions are not intended to be used together as this would allow for growth beyond the intended confines. I consider this a reasonable position and am satisfied the provision on clusters should not be an assumed next port of call where settlement growth limits are exhausted.

8. I find the proposed development gains no support from policy R2 as the settlement growth limit for Fetterangus has already been exceeded. The principle of development is not established and there is no policy justification for further housing at this time. I now turn to consider whether other matters would still justify approval of the proposed development.

Design, layout and siting and impact on landscape character and amenity

9. Policy E2 seeks to avoid unacceptable landscape impacts and policy P1 addresses layout, siting and design considerations, including protecting amenity. The design and orientation of the proposed house mirrors five others already built to the north and west. Whilst raising the land would increase the visibility of the proposed house from neighbouring properties, it would not be highly visible in the wider landscape. On balance I agree with the council that it would be in keeping with its surroundings, satisfying policy E2 and sufficiently protecting the amenity of existing residents in accord with policy P1.

10. However, I share the council's concern that existing trees on the southern boundary of the appeal site, being only 15 metres from the southern elevation and potentially not yet at full maturity, could overshadow the proposed house and garden. The council sought further information on the trees at the application stage, but this was not forthcoming. I agree a survey would provide more certainty on this point. For now, I find the failure to demonstrate adequate residential amenity for the proposed house conflicts with policy P1.

Services

11. Access to the proposed house would be via a rough private track that already serves five homes. The council's roads team has stated it would object to a sixth house unless the track is brought up to adoptable standards. There is no indication the appellant intends to

do this, and no evidence the roads team would make an exception in this case. The new track that the appellant states is being created further along Ferguson Street does not solve the issue, as there is no indication any of the existing homes would be stopped from using the current track. Nothing I observed during my site inspection gave me confidence it would be appropriate to override the view of the roads team. Furthermore, I note that part of the appeal site was reserved for a turning area under the planning permission for the two houses to the west. The opportunity to provide that would be lost if the site was developed. For these reasons I find there would be inadequate road provision, contrary to policy RD1.

12. Whilst the council is dissatisfied with the level of information provided on water supply and foul drainage, I consider these arrangements could be managed with planning conditions were the appeal to be allowed. I am not persuaded the same is true of surface water drainage. Two previous planning permissions utilised the appeal site land for a sustainable drainage system pond for adjacent homes already built. Therefore, as noted by the council, the proposed development could affect the ability of the adjacent houses to be adequately drained. Neighbouring residents have also raised concerns about the impact surface water runoff from the proposed development could have on their properties. This is an important matter on which to be able to provide reassurance, and I find the failure to demonstrate adequate surface water drainage arrangements is contrary to policy RD1.

Other matters

13. Turning to other policies referred to in the council's submissions, the council confirms the proposal does not engage policy H2 (affordable housing) and, because there are no capacity issues for local schools, it does not conflict with policy RD2 (developer obligations). A condition could be used to secure an energy statement for policy C1 compliance. The council also states the proposal would not give rise to flooding issues.

14. The proposed Aberdeenshire LDP, 2020 is under examination and is a material consideration. Whilst policy R2.12 of the proposed LDP would make qualified provision for the small-scale organic growth of identified settlements, this may not apply to Fetterangus. The policy would not apply to settlements with allocated opportunity sites for housing, and there are three such sites proposed for Fetterangus. Notwithstanding this, the 2017 LDP remains the adopted LDP for the area. I have considered the appeal on that basis.

Conclusion

15. Overall, I find the principle of development gains no support from policy R2. Growth limits for Fetterangus have already been exceeded and there are no other matters which still justify its approval. The design of the proposed house and matters relating to contributions, sustainable energy provision and flooding have been addressed. However, the failure to demonstrate adequate residential amenity for the proposed dwelling is contrary to policy P1 and the issues raised on roads and surface water drainage are contrary to policy RD1.

16. I conclude that the proposed development would not accord overall with the relevant provisions of the development plan. I have considered all the other matters raised, including impacts on views and concerns about the existing bund on land adjacent to the appeal site, but there are none which would lead me to alter my conclusions.

Tammy Swift-Adams
Reporter