



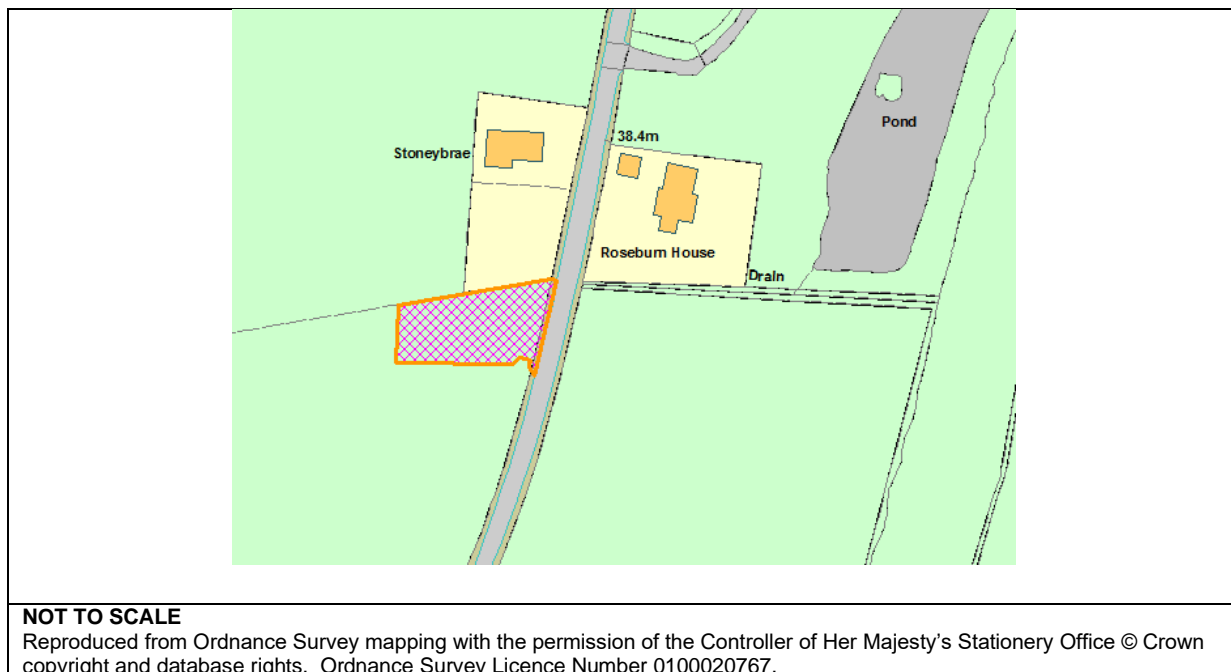
Buchan Area Committee Report 6 August 2022

Reference No: APP/2022/0655

Planning Permission in Principle For Erection of Dwellinghouse at Land To The North Of Eastview, Stuartfield, AB42 5DE

Applicant: Mr Kyle Fowlie, Eastview, Stuartfield, Aberdeenshire, AB42 5DE
Agent: Arcus Design Ltd, Mavisbank, Old Deer, Peterhead, B42 5JT

Grid Ref: E:397590 N:846665
 Ward No. and Name: W04 - Central Buchan
 Application Type: Planning Permission in Principle
 Representations: 0
 Consultations: 3
 Relevant Proposals Map: Aberdeenshire Local Development Plan
 Designations: Rural Housing Market Area
 Complies with:
 Development Plans: No
 Main Recommendation: Refuse



1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but 50% or a majority of responding Local Ward Members in the Ward in which the development is proposed have requested that the application be referred to the Area Committee.

Cllr. H Powell – Discussion due to the nature of the area and allocation of housing development permitted.

Cllr. A Simpson – Further discuss in relation to Policy R2.

- 1.2 The Monitoring Officer within Business Services has been consulted in the preparation of this report and had no comments to make and is satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 The application seeks planning permission in principle for the erection of a dwellinghouse on land to the north of Eastview, Stuartfield (Appendix 1 Location and Site Plan).

- 2.2 The site is located 94 metres north of the northern settlement boundary of Stuartfield. It is situated on the western side of the public road and is positioned between approved residential plots to the east and south, and with dwellinghouses to the north and north-east. The approved plot to the south is currently in an advanced stage of construction. The site is otherwise surrounded by open fields to the west. The application site itself is currently an area largely surfaced in loose gravel and partially enclosed by a horizontal board timber fence (of approximately 1.5 metres in height) along the northern boundary, as well as a vertically boarded timber fence (of approximately 1.8m in height) along the north-western boundary. A static caravan is located in the north-western corner of the site, and two corroded container units are positioned towards the north-eastern boundary. It is believed that these are associated with the construction of the adjacent dwellinghouse and are only in situ during the construction process. There is no formal planning permission in place for these units once the construction of the dwellinghouse is erected. Two mature trees are located on the opposite side of the boundary fence to the north. Access to the site is taken from the public road to the east, and a post-and-wire fence partially bounds this edge of the site.

- 2.3 The proposal involves the erection of a dwellinghouse towards the western edge of the site and utilise a shared access with the property under construction to the south. The proposed dwellinghouse would utilise a public water supply and have private surface and foul water drainage provision within the plot. The final layout, siting, and design is not known at this stage as the proposal is only for planning permission in principle. The location of the dwellinghouse within the plot is shown indicatively at this time.

2.4 The following is a history of planning applications that are relevant to the assessment of this application

Application site

- APP/2019/1823 – Condition 1 (Layout, Siting, Materials, Levels, Cross Sections, Floor Levels, Drainage, Access, Visibility Splays, Car Parking, Turning Area) of Planning Permission in Principle Reference APP/2016/2938 for Erection of Dwellinghouse (Matters Specified in Conditions). Granted, October 2019.
- APP/2016/2938 – Erection of Dwellinghouse (Planning Permission in Principle). Granted, January 2017.

Please note that this application is on a smaller segment of land than that granted above, so effectively seeks planning permission for a second dwelling. The above has not been counted towards the capacity of houses under Policy R2 as the planning permission in principle was granted prior to the adoption of the 2017 Development Plan.

Organic Growth/Small-scale addition to Appendix 4 Settlement – Stuartfield

- APP/2022/0111 Condition 1 (a) Levels b) Footprint and Location c) Design and Materials d) Materials e) Parking and Access f) Drainage) of Planning Permission Reference APP/2017/3047 for Erection of Dwellinghouse (Matters Specified in Conditions. Granted, 6 May 2022.
**This is an MSC to the permission in principle application, and so did not change the overall capacity.*
- APP/2021/2063 Erection of Dwellinghouse. Granted, June 2022.
**This replaces the approval of APP/2017/3171, and so did not change the overall capacity.*
- APP/2021/2062 Erection of Dwellinghouse. Granted, June 2022.
**This replaces the approval of APP/2017/3169 and so did not change the overall capacity.*
- APP/2021/2057 Erection of Dwellinghouse. Granted, June 2022.
**This proposal was for a renewal of the consent for a dwellinghouse under APP/2017/3168, so there is no change to the remaining capacity.*
- APP/2019/1811 Erection of Dwellinghouse (Planning Permission in Principle) Granted, December 2019
**This application did not change the remaining capacity as the consent APP/2016/1765 was revoked in order to accommodate this proposal.*
- APP/2018/2911 Erection of 2 Dwellinghouses. Granted, May 2019.
**Although the application was for 2 dwellinghouses, the site already had extant planning permission for 1 dwellinghouse under the Aberdeenshire Local Development Plan 2012 therefore, accounted only for an increase of 1 property in the 2017 Plan period.*
- APP/2018/2217 Erection of Dwellinghouse. Granted, June 2019.
- APP/2018/0548 Erection of Dwellinghouse (Planning Permission in Principle). Granted, May 2018.

- APP/2018/0514 Erection of Dwellinghouse (Planning Permission in Principle). Granted, May 2018.
- APP/2017/3171 Erection of Dwellinghouse and Formation of Footpath Without Compliance with Condition 8 (Passing Places) of Planning Permission Reference APP/2017/0352. Granted, March 2018. Note new planning permission above reference APP/2021/2063
- APP/2017/3169 Erection of Dwellinghouse and Formation of Footpath Without Compliance with Condition 8 (Passing Places) of Planning Permission Reference APP/2017/0351. Granted, March 2018. Note new planning permission above reference APP/2021/2062.
- APP/2017/3047 Erection of Dwellinghouse (Planning Permission in Principle). Granted, January 2018.
**An MSC proposal was approved for this property see reference above APP/2022/0111 (note only counted once against the capacity).*
- APP/2017/1226 Erection of Dwellinghouse. Granted, July 2017.
- APP/2017/1197 Erection of Dwellinghouse Granted, July 2017.
- APP/2017/1192 Erection of Dwellinghouse (Planning Permission in Principle). Granted, October 2017.

Organic Growth/Small-scale addition to Appendix 4 Settlement – Stuartfield (Refused Applications)

- APP/2020/1244 Erection of 2 Dwellinghouses. Refused, December 2020.
- APP/2018/2415 Erection of Dwellinghouse (Planning Permission in Principle). Refused, February 2019.
- APP/2018/2364 Erection of Dwellinghouse (Planning Permission in Principle). Refused, January 2019.

2.5 In support of the application the following documents have been submitted:

- Development Statement for Building Plot at Eastview Stuartfield – Arcus Design
- Drainage Addendum Statement for site adjacent to Eastview Stuartfield – Arcus Design

2.6 During the consideration of the application the Site Plan was amended to include references to the drainage on site. Drawing reference: 22012-P1 (2).

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Business Services (Developer Obligations)** initially stated that a contribution had previously been secured on the site. However, following clarification that this involved an additional dwellinghouse on a previously approved site it advised that contributions have now been agreed towards Primary Education, for the extension of Stuartfield Primary School.

- 4.2 **Environment and Infrastructure Services (Roads Development)** has no objection to the development subject to conditions.
- 4.3 **Scottish Water** has no objection to the proposal although it advises that this should not be interpreted as confirmation that the development can currently be serviced. The development is within the vicinity of a connection to the Turriff Water Treatment Works and Stuartfield Waste Water Treatment Works although it is unable to confirm if there is available capacity at either. It advises that applicant completes a Pre-Development Enquiry (PDE) and submits this via Scottish Water's Customer Portal for a fuller appraisal.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving

the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

5.3 Aberdeenshire Local Development Plan 2017

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

5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the "settled view of the Council" on what the final adopted content of the LDP 2022 should be. The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Reporter's report of Examination of the Proposed LDP 2020 has now been published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase "settled view of the Council" can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the certainty associated with the Reporters' Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter's Report should be given overwhelming significant weight when it is most advantageous to the applicant's proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council's "settled view".

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April with reference to the legislation the LDP 2017 becomes technically 'out of date'. Notwithstanding the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently

Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the plan, as confirmed within Section 2 – ‘Influences of the Plan’. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

6. Discussion

- 6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.
- 6.2 The main issues for consideration with regard to this application are whether the principle of development can be established for a dwellinghouse in this location and whether it would respect the visual and residential amenity of the surrounding area.

Principle

- 6.3 The principle of development must be established under Policy R2 as the development is outwith the settlement boundary of Stuartfield and it is not located within Greenbelt or Coastal Zone land. The only criterion within which the proposal could be considered is if it were accepted as an addition to a settlement identified within Appendix 4 of the Local Development Plan. This would allow for the ‘small-scale growth’ of the settlement in groups of up to 3 houses, up to a maximum of 10 homes (or 20% growth of the settlement, whichever is lesser) during the current plan period and where the sites are within 200m of the settlement boundary.
- 6.4 Stuartfield is of a sufficient size that the capacity under this provision of the policy allows for 10 dwellings during the current plan period. However, the full capacity has already been exceeded with 11 properties being granted during the current plan period (which are listed in the relevant planning history aforementioned within this report). None of the permissions utilising the capacity have expired, in part due to the extensions to the permissions that would have been afforded by the provisions within the Coronavirus (Scotland) Act 2020 as amended.
- 6.5 It is noted in the Supporting Statement that the agent refers to the property being an addition to an existing residential cluster. It should be noted however that the provision allowing for the small-scale addition to existing clusters of

five or more properties, by no more than a 20% growth of the cluster (up to two properties), cannot be applied in areas that would also benefit from Organic Growth/Small-Scale additions to Appendix 4 settlements. The cluster provision was intended to be for more remote areas away from settlements (particularly Appendix 4 ones), as a means of facilitating additions to modest groups, not as a means of extending out from the fringes of an established settlement. To otherwise do so would create exponential growth, and be in conflict with the principle of sustainable development. This interpretation was also upheld in a recent decision by the DPEA in March 2022, in the nearby settlement of Fetterangus, where the Reporter stated in appeal reference PPA-110-2424 (for planning application reference APP/2021/1002):

- 6.6 “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.”
- 6.7 Despite the 2017 Local Development Plan technically being outdated, a new Plan will not begin until the adoption of a new Local Development Plan. The policies contained within the 2017 Plan remain consistent with Scottish Planning Policy’s focus on the promotion of sustainability. As the capacity for growth is taken for Stuartfield, then development would be directed towards any existing brownfield sites or opportunities for infill development within Stuartfield. Furthermore there are allocations within Stuartfield, housing development should also be directed towards the existing OP1 and OP2 allocations which are intended to provide opportunities for a combined total of 80 dwellinghouses. Any incremental development of dwellinghouses on Greenfield land beyond the capacity for ‘small-scale growth’ threatens to undermine the delivery of the allocated sites and would hinder sustainable development. For this reason, the proposal is deemed to be contrary to Policy R2.

Layout, siting and design

- 6.8 The site could accommodate a dwellinghouse within the plot and the indicative position and size of the property shown on the block plan would show how a modest sized dwelling could be positioned. The plot would share the existing access for the property known as Eastview to the south and private surface and foul drainage could be included within the plot. It is therefore apparent that a suitable layout and design could be achieved for the site in order to comply with Policy P1, however, a fuller assessment would be undertaken when these details are known as part of any subsequent Matters Specified in Conditions proposal.

Landscape

- 6.9 The impact of the development on the landscape character would be modest, due to the proximity to the dwellinghouse to the south and other residential properties to the north and east. The site would be visually prominent from the

public road to the east, although the main change from the existing views is likely to be a shift from what would be associated as domestic curtilage of Eastview (to the south), to the sub-division into a secondary residential plot. The scale and design of the final dwelling would dictate how well any property could be assimilated into the surroundings, and whether it would respect the character of its surroundings. In principle, a dwellinghouse on the site, subject to appropriate design, would not fundamentally alter the established landscape character of the location. On this basis the proposal is deemed not to conflict with Policy E2.

Carbon neutrality

- 6.10 The energy efficiency of the dwellinghouse is not yet known, however there is no reason to suspect that the dwellinghouse could not be constructed to meet the Council's energy efficiency and sustainability requirements. A condition could be applied to any approval issued, which requires the submission of SAP calculations to the Planning Service for confirmation of their acceptability prior to the construction of the dwellinghouse. Such a condition would be sufficient to address the requirements of Policy C1.

Servicing

- 6.11 The development would connect to the public water supply and an available connection point is located within the vicinity of the site. Private foul and surface water drainage are proposed despite Scottish Water indicating that a connection to the public sewer is available within the vicinity. Scottish Water will have identified that the site is within the vicinity of a connection to the public sewer but its response does not include any assessment as to the likely viability of forming such a connection.
- 6.12 The agent outlines that although the sewage works are located approximately 200 metres south-east of the site, a pumping station would be required due to the position of the site in a slight dip. Furthermore, the pipe would need to cross the main Stuartfield/Old Deer road, through a field (which is in separate ownership), and a burn. As a result of this, the costs associated with forming a connection to the public sewer are prohibitive for a single house development, hence a private solution being offered.
- 6.13 The private drainage measures have been demonstrated to be viable in principle, although full details on their final design and position would be conditioned as part of any approval. Roads has no objection to the proposed development subject to conditions. Consequently, the proposal is deemed to broadly accord with the principles of Policy RD1 at this time.

Developer obligations

- 6.14 Contributions towards a dwellinghouse have been agreed in principle towards Primary Education. Subject to such a contribution being secured, the proposal would not conflict with Policy RD2.

Conclusion

- 6.15 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.16 The principle of development for a dwellinghouse on this site cannot be established under Policy R2. The capacity for small-scale growth of Stuartfield, with its settlement boundary, has already been met, and the proposal does not meet any of the other eligibility criteria. Any additional dwellings granted under the small-scale growth criterion is contrary to the sustainability of the growth of the settlement and would undermine the existing housing allocations within that area. Accordingly, the proposal is recommended for refusal. Furthermore, the Development Plan allowed 20% growth only during the Plan period. It is noted the emerging Plan does not facilitate such growth of Stuartfield. It is deemed that such growth is in conflict with Scottish Planning Policy as it is not sustainable, noting the development involves building on greenfield land (previously undeveloped), and would undermine the deliverability of allocated sites within the settlement. The decision by the DPEA at Fetterangus, is also a material planning consideration, and is a recent decision, noting that in that case, a site which was greenfield and adjacent to the settlement was deemed unsustainable because the small-scale growth had already been met.
- 6.17 The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles and does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

- 8.4 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

9. Departures, Notifications and Referrals

9.1 Strategic Development Plan Departures

None

9.2 Local Development Plan Departures

Policy R2 Housing and employment development elsewhere in the countryside

- 9.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

- 9.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

- 9.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

10. Recommendation

10.1 **REFUSE Planning Permission in Principle for the following reason:-**

01. The principle of development for a dwellinghouse on the site is in conflict with Policy R2 Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017, in that the principle of a dwellinghouse cannot be established as the capacity for the small-scale growth of the Appendix 4 settlement of Stuartfield has already been taken during the current plan period. The proposal does not otherwise meet any of the other eligibility criteria under Policy R2.

The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles, as it is a greenfield site and would undermine the deliverability of the housing allocations in Stuartfield and dwellings granted under the small-scale organic growth criterion, and it does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.

Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Rory Hume
Report Date: 24 August 2022

