

3. Minute of Meeting of the Local Review Body of 26 August 2022.

# ABERDEENSHIRE COUNCIL

## LOCAL REVIEW BODY

### VIRTUAL MEETING, FRIDAY, 26 AUGUST, 2022

**Present:** Councillors P Johnston (Chair), R Cassie (substitute for Councillor S Adams), M Ewenson (substitute for Councillor D Lonchay), J Goodhall, C Simpson, and C Victor.

**Apologies:** Councillor S Adams and D Lonchay.

**Officers:** Planning Adviser to the Local Review Body (Senior Planner, James Wheater), Legal Adviser to the Local Review Body (Solicitor, Amanda de Candia) and Senior Committee Officer (Frances Brown).

#### 1. DECLARATION OF MEMBERS' INTERESTS.

In respect of declaration of members' interests as required by the Code of Conduct for members, no declarations of members' interests were intimated.

#### 2. PUBLIC SECTOR EQUALITY DUTY.

In making decisions on the following items of business, the Local Review Body **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.
- (2) where an Integrated Impact Assessment was provided, to consider its contents and take those into account when reaching their decision.

#### 3. MINUTE OF THE LOCAL REVIEW BODY MEETING OF 29 JULY, 2022

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 29 July, 2022. As the meeting had been held virtually, it was **noted** the Chair would sign the minute at an appropriate time, in the future.

#### 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, as contained within the Aberdeenshire Local Development Plan (2017).

The Local Review Body also had before them, and **noted**, a spreadsheet which listed the policies which would be referred to, in consideration of each of the reviews presented, as contained within the proposed Aberdeenshire Local Development Plan (2020).

Before proceeding to consider each of the reviews, the Planning Adviser noted that in addition to the matters raised within the papers, the current Aberdeenshire Local Development Plan 2017 was now beyond the five-year lifetime of the plan. When a development plan was more than five years old Scottish Planning Policy (SPP) states that there is a presumption in favour of development which contributes to Sustainable Development. The Local Review Body should keep this consideration in mind.

That presumption would be a significant material consideration; however, it did not mean that planning permission must be granted just because the plan was technically out of date. The Council's Local Development Plan remained a key document for assessing the acceptability of a planning application, as it was considered to accord with the principles and policies of Scottish Planning Policy. The position regarding the Development Plan did however introduce the need for the Local Review Body to specifically consider that presumption and consider whether any application subject to review before them could be considered to contribute to sustainable development.

### **RECONVENED REVIEW**

#### **5. LRB 553 – NOTICE OF REVIEW AGAINST REFUSAL OF APPLICATION UNDER SECTION 42 FOR ERECTION OF 2 HOLIDAY CHALETS, STORE AND OIL TANK WITHOUT COMPLIANCE WITH CONDITIONS 4 AND 5 (OCCUPANCY) OF PLANNING PERMISSION REFERENCE S030271P AT BIRCH LODGE AND WILLOW COTTAGE, INCHMARLO, BANCHORY, ABERDEENSHIRE, AB31 4BT – REFERENCE: APP/2021/2829.**

Local Review Body: Councillors P Johnston (Chair), J Goodhall, and C Victor.

With reference to the minute of the Local Review Body meeting of 29 July 2022 (Item 6), 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, there was circulated an updated site plan, which would identify the respective boundaries for Birch Lodge and Willow Cottage and any shared driveways for both units.

The Local Review Body then resumed consideration of the Notice of Review which sought a review of the Appointed Officer's decision to Refuse the Application Under Section 42 for the Erection of 2 Holiday Chalets, Store and Oil Tank, without compliance with Conditions 4 and 5 (Occupancy) of Planning Permission, Reference S030271P at Birch Lodge and Willow Cottage, Inchmarlo, Banchory, Aberdeenshire, AB31 4BT – Reference: APP/2021/2829.

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 on 29 July 2022, and a recap of the Appointed Officer's reasons for refusal, namely:

- (1) The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. Insufficient evidence has been provided to justify the removal of conditions, which in turn would result in two permanently occupiable dwellings in the countryside, both in terms of marketing of the properties to be sold for continued short-term letting accommodation and information that demonstrates that the existing holiday chalets are no longer viable in their current form. Subsequently, the proposal fails to comply with Policy B3: Tourist facilities and Policy R2: Housing and employment development elsewhere in the countryside.

The Local Review Body then noted each of the conditions:

#### Condition 4

The proposed building shall only be used as a holiday accommodation and shall not be used by a tenant, lessee, owner, or occupier as their only or principle dwellinghouse. No single period of occupation shall exceed 1 month. Occupation shall be restricted to use by persons requiring to stay in the area for recreational or vocational purposes and not for reason of work, business, retirement, or study.

Reason: In order to define the permission and ensure that the structure shall be used solely for holiday use only because a dwellinghouse at this location would be contrary to established policies and guidance.

#### Condition 5

The proposed development shall be an integral part of Inchmarlo Home Farm Business in perpetuity and shall not be disposed of or leased separately from the farm business unless otherwise agreed in writing by the Planning Authority.

Reason: To retain overall control of the development which is approved as an element of an established rural business.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy B3: Tourist facilities; Policy R2: Housing and employment development elsewhere in the countryside; Policy P1: Layout, siting, and design; Policy RD1: Providing suitable services and Policy RD2: Developers' obligations

As part of their consideration of the review, the Local Review Body noted that as the 5-year plan period associated with the Aberdeenshire Local Development Plan 2017 had now ended they must consider whether the proposal constituted development which contributed to sustainable development. If so, there would be a presumption in favour of such development unless any adverse impacts arising from the proposal that were significant and demonstrable would indicate against a grant of planning permission.

Whilst the Planning Adviser reiterated that the principles of Scottish Planning Policy had been incorporated within the Local Development Plan, and therefore still embodied those principles, he noted that it would be incumbent on the Local Review Body to consider whether the proposal could contribute to sustainable development as part of their consideration of the review.

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) In his professional opinion, the proposal could not be considered to comply with either Policy R2 or B3 of the Local Development Plan 2017 as the proposal would not meet any of the requirements to permit a new house in the countryside. The applicant had not provided justification that the tourism accommodation was not viable as required by Policy B3. The Planning Adviser noted that the Local Review Body should therefore consider the matters raised by the applicant which included the planning history of the site and whether those were sufficiently material to warrant a departure from Policy.
- (2) Although the current planning policy now sought to consider the lodge and chalet accommodation as residences, short-term letting conditions were required if holiday accommodation of the nature being considered were to be retained as holiday accommodation unless a dwelling would be permitted under Policy R2 on that particular site. The nature of planning was such that most holiday accommodation would be considered residential as a use class and the only means of controlling this outside short term let control areas was by way of condition.
- (3) The planning history of the surrounding area could be considered as material to the application, although the weight to place on that was one for the Local Review Body to determine.
- (4) The Planning Adviser recommended that it would be prudent, in terms of the future planning of the area, and to understand implications for permitted development rights for a plan to be provided identifying the area of land to be associated with each property as the nature of the original permission did not contain that information.

The Local Review Body determined that there was now sufficient information before them to consider the review without further procedure having received the updated plan showing the curtilage for both properties.

When considering that matters before them, the Local Review Body considered whether the proposal could, in the absence of those conditions, comply with the relevant Local Development Plan Policies and whether the proposal could be supported as a dwelling under Policy R2: Housing and employment development elsewhere in the countryside and whether it had been demonstrated that the

proposal had been sufficiently marketed to confirm that there was no longer sufficient demand for tourist accommodation.

Secondary to those issues, in the event that the Local Review Body was minded to grant planning permission, the Local Review Body would decide what, if any, other conditions should be applied to that new permission.

During discussion, the Local Review Body considered the matters raised within the Applicant's Notice of Review and the reasons for refusal as set out in the Appointed Officer's Decision Notice. Having considered that information, the Local Review Body supported the Appointed Officer reasoning that the proposal would, in their view, be contrary to Policy R2, noting the terms of the linked policy R1: Special Rural Areas and sufficient marketing had not been provided for the proposal to accord with Policy B3.

However, the Local Review Body also considered that those conditions had been in place for 20 years and whilst they had served a purpose during that time, they were minded to support the applicant's view that the approved and extant planning permissions adjacent to the site would significantly change the environment around the holiday accommodation and additional accommodation would further reduce the viability of the applicant's lodges.

The Local Review Body considered the points discussed at their previous meeting and determined that they were minded to grant planning permission, without Condition 4 or Condition 5, and following further advice from the Planning Adviser on the other conditions pertinent to the original decision, agreed that Conditions 1, 2 and 3 of the original permission were either no longer relevant or were unreasonable to be re-applied to the new permission granted under the current application.

The Local Review Body also noted the Planning Adviser's advice that the updated plan showing the curtilages should form part of any grant of planning permission and an informative should be utilised to provide clarity on the purpose and future use of the plan and agreed that should be applied to any grant of planning permission.

The Local Review Body concluded that the proposed development would contribute to sustainable development given that it would fit within the wider pattern of development that benefitted from an extant planning permission and there were no significant adverse impacts that would result from the removal of those conditions.

After due consideration, the Local Review Body unanimously **agreed to UPHOLD** the Notice of Review and reverse the Appointed Officer's decision and **GRANT** Planning Permission under Section 42 for the Erection of 2 Holiday Chalets, Store and Oil Tank Without Compliance with 4 and 5 (Occupancy) of Planning Permission Reference S030271PF and the removal of Conditions 1-3, subject to the plan and informative as stated by the Planning Adviser.

## **NEW REVIEWS**

### **6. LRB 555 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE, FORMATION OF ACCESS AND BUND AT PLOT B, CONVETH MAINS FARM, ABERDEEN ROAD, LAURENCEKIRK, AB30 1RR – REFERENCE: APP/2021/2874.**

Local Review Body: Councillors P Johnston (Chair), R Cassie, M Ewenson, J Goodhall, C Simpson, and C Victor.

Before presenting the Notice of Review, the Planning Adviser advised the Local Review Body that there were similarities between LRB 555 and LRB 556 and LRB 557 as they were Plots A, B and C on the same site. While the Planning Adviser would present those reviews collectively, he would provide a summary of those applications, and the relevant information pertinent to each of those reviews, which would be determined individually.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Planning Permission in Principle, for the Erection of a Dwellinghouse, Formation of Access and Bund, at Plot B, Conveth Mains Farm, Aberdeen Road, Laurencekirk, AB30 1RR – Reference: APP/2021/2874.

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 during the consultation period for the application, prior to determination.

Further to consultations undertaken, it was reported that:

- Environmental Health had not objected to the proposed development.
- Roads Development had commented that the application was sited within the boundaries of allocated housing site OP1 (previously M1) of the Aberdeenshire Local Development 2017 and as such more information on the proposal would be required including how it would be implemented into the wider OP1 boundary.

Matters such as road junction location and types (i.e., housing or employment), internal street and road layouts, footway/footway, traffic calming, street lighting etc. would need to be considered to ensure a future cohesive layout would integrate into Laurencekirk and until such information had been provided, Roads Development would object to the application.

- Developers' Obligations had not commented on the proposal.
- Scottish Water had not objected to the proposed development and had advised that capacity for foul water only was currently available at the wastewater treatment plant to serve the proposal.

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

- (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 application site is located within the boundary of site OP1 on which development must be carried out in accordance with an approved masterplan. As no masterplan has been provided and approved prior to submission of the application, the proposal fails to comply with Policy H1: Housing land and Policy P1: Layout, siting, and design of the Aberdeenshire Local Development Plan 2017.
- (2) The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. The applicant has failed to demonstrate that surface water can be dealt with in a sustainable manner and in a way that avoids pollution and flooding and has not demonstrated why the site cannot be connected to the Scottish Water infrastructure where there is currently capacity to serve the development. As such, the proposal fails to comply with Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy P1: Layout, Siting and Design; Policy RD1: Providing Suitable Services; Policy RD2: Developers' Obligations; and Policy H1: Housing Land.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2020 were: Policy P1: Layout, Siting and Design; Policy H1: Housing Land; Policy RD1: Providing Suitable Services, and Policy RD2: Developer Obligations.

As part of their consideration of the review, the Local Review Body noted that as the 5-year plan period associated with the Aberdeenshire Local Development Plan 2017 had now ended they must consider whether the proposal constituted development which contributed to sustainable development. If so, there would be a presumption in favour of such development unless any adverse impacts arising from the proposal that were significant and demonstrable would indicate against a grant of planning permission.

Whilst the Planning Adviser reiterated that the principles of Scottish Planning Policy had been incorporated within the Local Development Plan, and therefore still embodied those principles, he noted that it would be incumbent on the Local Review Body to consider whether the proposal could contribute to sustainable development as part of their consideration of the review.



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) The Supplementary Guidance SG LSD 1 was not currently adopted planning guidance but had been guidance provided to the previous development plan.

As such it would not be considered material to their decision. Notwithstanding the site would have needed to be considered in respect of the whole site (885 houses) in the context of that guidance not 3 houses as suggested by the Applicant.

- (2) The Aberdeenshire Local Development Plan 2017 remained the primary document for decision making and the Local Review Body should consider the proposal against the relevant policies first and foremost but should still be mindful of the Scottish Planning Policy (SPP) position in respect of sustainable development and the position taken by the Proposed Aberdeenshire Local Development Plan 2020 when taking a final decision.
- (3) Policy RD1 referenced Scottish Environment Protection Agency (SEPA's) guidance on waste water connections in settlements. SEPA had several policy documents in relation to the provision of waste water infrastructure. The policy set out indicated that SEPA would object to new private foul drainage arrangements close to or within settlements of greater than 2000 population equivalent.
- (4) The supporting documentation related to the preparation of the proposed plan and that appeared to indicate that the wider site had been reduced in size following concerns about its slow delivery.
- (5) Conditions pertaining to the drainage solution.

When considering the main determining issues for the review as presented before them the Local Review Body considered whether the proposed development met the criteria set out in Policy H1: Housing Land and Policy P1 Layout Siting and Design of the Aberdeenshire Local Development Plan 2017. The application had been refused as the site did not form part of an approved Masterplan, and it could not be supported under those policies. The applicant had considered that it would in their view be unreasonable to request a Masterplan for a small-scale development and had provided supplementary guidance which appeared to support that rationale and that the proposal would not prejudice the development of the rest of the site or surrounding area.

Following the response to questions raised, the Local Review Body considered whether they would require further information regarding the detailed reasoning for the removal of the allocation in the proposed plan 2020. Whilst the Local Review Body considered that it may have been helpful to gain further information on the

reasons for the removal of the OP1 allocation from that part of the site, they determined that they could reasonably make a decision on the review without that information. As such the Local Review Body determined that they did have enough information and proceeded to determine the review.

During discussion, the Local Review Body considered the matters raised within the Applicant's Notice of Review in respect of their view that the site did not need a masterplan and that the development would not impact on the deliverability of land in the vicinity of the area. The Local Review Body considered that the guidance provided within the Notice of Review did seem to suggest that small groupings of houses did not require a masterplan, but they also took cognisance of the advice provided by the Planning Adviser that the supplementary guidance was no longer adopted, and in any event, would not apply to allocated sites which could be considered on the basis of the wider allocation.

The Local Review Body considered that the proposal would constitute a departure from the relevant policies H1: Housing Land and P1: Layout, Siting and Design due to the lack of a masterplan but the Applicant had not provided sufficient planning reasons to depart from the policy position intended to ensure a planned approach to settlement expansion. The Local Review Body also shared the Appointed Officer's concerns that the drainage proposals had not been justified and appeared contrary to the development plan.

The Local Review Body had throughout their discussion debated whether the proposal could be considered to contribute to sustainable development and agreed that due to the issues discussed the proposal would not contribute to sustainable development, being effectively ad hoc development on the edge of an existing settlement which was contrary to the planned approach set out in the Local Development Plan.

After due consideration, the Local Review Body **agreed**, by consensus, 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 dated 25 March 2022.

**7. LRB 556 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE, FORMATION OF ACCESS AND BUND AT PLOT C, CONVETH MAINS FARM, ABERDEEN ROAD, LAURENCEKIRK, AB30 1RR – REFERENCE: APP/2021/2872.**

Local Review Body: Councillors P Johnston (Chair), R Cassie, M Ewenson, J Goodhall, C Simpson, and C Victor.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Planning Permission in Principle, for the Erection of a Dwellinghouse, Formation of Access and Bund, at Plot C, Conveth Mains Farm, Aberdeen Road, Laurencekirk, AB30 1RR – Reference: APP/2021/2872.

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 during the consultation period for the application, prior to determination.

Further to consultations undertaken, it was reported that:

- Environmental Health had not objected to the proposed development.
- Roads Development had commented that the application was sited within the boundaries of allocated housing site OP1 (previously M1) of the Aberdeenshire Local Development 2017 and as such more information on the proposal would be required including how it would be implemented into the wider OP1 boundary.

Matters such as road junction location and types (i.e., housing or employment), internal street and road layouts, footway/footway, traffic calming, street lighting etc. would need to be considered to ensure a future cohesive layout would integrate into Laurencekirk and until such information had been provided, Roads Development would object to the application.

- Developers' Obligations had not commented on the proposal.
- Scottish Water had not objected to the proposed development and had advised that capacity for foul water only was currently available at the wastewater treatment plant to serve the proposal.

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

- (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 application site is located within the boundary of site OP1 on which development must be carried out in accordance with an approved masterplan. As no masterplan has been provided and approved prior to submission of the application, the proposal fails to comply with Policy H1: Housing land and Policy P1: Layout, siting, and design of the Aberdeenshire Local Development Plan 2017.
- (2) The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. The applicant has failed to demonstrate that surface water can be dealt with in a sustainable manner and in a way that avoids pollution and flooding and has not demonstrated why the site cannot be connected to the Scottish Water infrastructure where there is currently capacity to serve the development. As

such, the proposal fails to comply with Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy P1: Layout, Siting and Design; Policy RD1: Providing Suitable Services; Policy RD2: Developers' Obligations; and Policy H1: Housing Land.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2020 were: Policy P1: Layout, Siting and Design; Policy H1: Housing Land; Policy RD1: Providing Suitable Services, and Policy RD2: Developer Obligations.

As part of their consideration of the review, the Local Review Body noted that as the 5-year plan period associated with the Aberdeenshire Local Development Plan 2017 had now ended they must consider whether the proposal constituted development which contributed to sustainable development. If so, there would be a presumption in favour of such development unless any adverse impacts arising from the proposal that were significant and demonstrable would indicate against a grant of planning permission.

Whilst the Planning Adviser reiterated that the principles of Scottish Planning Policy had been incorporated within the Local Development Plan, and therefore still embodied those principles, he noted that it would be incumbent on the Local Review Body to consider whether the proposal could contribute to sustainable development as part of their consideration of the review.

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) The Supplementary Guidance SG LSD 1 was not currently adopted planning guidance but had been guidance provided to the previous development plan.  
  
As such it would not be considered material to their decision. Notwithstanding the site would have needed to be considered in respect of the whole site (885 houses) in the context of that guidance not 3 houses as suggested by the Applicant.
- (2) The Aberdeenshire Local Development Plan 2017 remained the primary document for decision making and the Local Review Body should consider the proposal against the relevant policies first and foremost but should still be mindful of the Scottish Planning Policy (SPP) position in respect of sustainable development and the position taken by the Proposed Aberdeenshire Local Development Plan 2020 when taking a final decision.
- (3) Policy RD1 referenced Scottish Environment Protection Agency (SEPA's) guidance on waste water connections in settlements. SEPA had several

policy documents in relation to the provision of waste water infrastructure. The policy set out indicated that SEPA would object to new private foul drainage arrangements close to or within settlements of greater than 2000 population equivalent.

- (4) The supporting documentation related to the preparation of the proposed plan and that appeared to indicate that the wider site had been reduced in size following concerns about its slow delivery.
- (5) Conditions pertaining to the drainage solution.

When considering the main determining issues for the review as presented before them the Local Review Body considered whether the proposed development met the criteria set out in Policy H1: Housing Land and Policy P1 Layout Siting and Design of the Aberdeenshire Local Development Plan 2017. The application had been refused based on the fact that the site did not form part of an approved Masterplan, and it could not be supported under those policies. The applicant had considered that it would in their view be unreasonable to request a Masterplan for a small-scale development and had provided supplementary guidance which appeared to support that rationale and that the proposal would not prejudice the development of the rest of the site or surrounding area.

Following the response to questions raised, the Local Review Body considered whether they would require further information regarding the detailed reasoning for the removal of the allocation in the proposed plan 2020. Whilst the Local Review Body considered that it may have been helpful to gain further information on the reasons for the removal of the OP1 allocation from that part of the site, they determined that they could reasonably make a decision on the review without that information. As such the Local Review Body determined that they did have enough information and proceeded to determine the review.

During discussion, the Local Review Body considered the matters raised within the Applicant's Notice of Review in respect of their view that the site did not need a masterplan and that the development would not impact on the deliverability of land in the vicinity of the area. The Local Review Body considered that the guidance provided within the Notice of Review did seem to suggest that small groupings of houses did not require a masterplan, but they also took cognisance of the advice provided by the Planning Adviser that the supplementary guidance was no longer adopted, and in any event, would not apply to allocated sites which could be considered on the basis of the wider allocation.

The Local Review Body considered that the proposal would constitute a departure from the relevant policies H1: Housing Land and P1: Layout, Siting and Design due to the lack of a masterplan but the Applicant had not provided sufficient planning reasons to depart from the policy position intended to ensure a planned approach to settlement expansion. The Local Review Body also shared the Appointed Officer's concerns that the drainage proposals had not been justified and appeared contrary to the development plan.

The Local Review Body had throughout their discussion debated whether the proposal could be considered to contribute to sustainable development and agreed that due to the issues discussed the proposal would not contribute to sustainable development, being effectively ad hoc development on the edge of an existing settlement which was contrary to the planned approach set out in the Local Development Plan.

After due consideration, the Local Review Body **agreed**, by consensus, 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 dated 25 March 2022.

**8. LRB 557 – NOTICE OF REVIEW AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE, FORMATION OF ACCESS AND BUND AT PLOT A, CONVETH MAINS FARM, ABERDEEN ROAD, LAURENCEKIRK, AB30 1RR – REFERENCE: APP/2021/2878.**

Local Review Body: Councillors P Johnston (Chair), R Cassie, M Ewenson, J Goodhall, C Simpson, and C Victor.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Planning Permission in Principle, for the Erection of a Dwellinghouse, Formation of Access and Bund, at Plot A, Conveth Mains Farm, Aberdeen Road, Laurencekirk, AB30 1RR – Reference: APP/2021/2878.

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 during the consultation period for the application, prior to determination.

Further to consultations undertaken, it was reported that:

- Environmental Health had not objected to the proposed development.
- Roads Development had commented that the application was sited within the boundaries of allocated housing site OP1 (previously M1) of the Aberdeenshire Local Development 2017 and as such more information on the proposal would be required including how it would be implemented into the wider OP1 boundary.

Matters such as road junction location and types (i.e., housing or employment), internal street and road layouts, footway/footway, traffic calming, street lighting

etc. would need to be considered to ensure a future cohesive layout would integrate into Laurencekirk and until such information had been provided, Roads Development would object to the application.

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

- (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 application site is located within the boundary of site OP1 on which development must be carried out in accordance with an approved masterplan. As no masterplan has been provided and approved prior to submission of the application, the proposal fails to comply with Policy H1: Housing land and Policy P1: Layout, siting, and design of the Aberdeenshire Local Development Plan 2017.
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The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy P1: Layout, Siting and Design; Policy RD1: Providing Suitable Services; Policy RD2: Developers' Obligations; and Policy H1: Housing Land.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2020 were: Policy P1: Layout, Siting and Design; Policy H1: Housing Land; Policy RD1: Providing Suitable Services, and Policy RD2: Developer Obligations.

As part of their consideration of the review, the Local Review Body noted that as the 5-year plan period associated with the Aberdeenshire Local Development Plan 2017 had now ended they must consider whether the proposal constituted development which contributed to sustainable development. If so, there would be a presumption in favour of such development unless any adverse impacts arising from the proposal that were significant and demonstrable would indicate against a grant of planning permission.

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- (1) The Supplementary Guidance SG LSD 1 was not currently adopted planning guidance but had been guidance provided to the previous development plan.  
  
As such it would not be considered material to their decision. Notwithstanding the site would have needed to be considered in respect of the whole site (885 houses) in the context of that guidance not 3 houses as suggested by the Applicant.
- (2) The Aberdeenshire Local Development Plan 2017 remained the primary document for decision making and the Local Review Body should consider the proposal against the relevant policies first and foremost but should still be mindful of the Scottish Planning Policy (SPP) position in respect of sustainable development and the position taken by the Proposed Aberdeenshire Local Development Plan 2020 when taking a final decision.
- (3) Policy RD1 referenced Scottish Environment Protection Agency (SEPA's) guidance on waste water connections in settlements. SEPA had several policy documents in relation to the provision of waste water infrastructure. The policy set out indicated that SEPA would object to new private foul drainage arrangements close to or within settlements of greater than 2000 population equivalent.
- (4) The supporting documentation related to the preparation of the proposed plan and that appeared to indicate that the wider site had been reduced in size following concerns about its slow delivery.
- (5) Conditions pertaining to the drainage solution.

When considering the main determining issues for the review as presented before them the Local Review Body considered whether the proposed development met the criteria set out in Policy H1: Housing Land and Policy P1 Layout Siting and Design of the Aberdeenshire Local Development Plan 2017. The application had been refused based on the fact that the site did not form part of an approved Masterplan, and it could not be supported under those policies. The applicant had considered that it would in their view be unreasonable to request a Masterplan for a small-scale development and had provided supplementary guidance which appeared to support that rationale and that the proposal would not prejudice the development of the rest of the site or surrounding area.



Following the response to questions raised, the Local Review Body considered whether they would require further information regarding the detailed reasoning for the removal of the allocation in the proposed plan 2020. Whilst the Local Review Body considered that it may have been helpful to gain further information on the reasons for the removal of the OP1 allocation from that part of the site, they determined that they could reasonably make a decision on the review without that information. As such the Local Review Body determined that they did have enough information and proceeded to determine the review.

During discussion, the Local Review Body considered the matters raised within the Applicant's Notice of Review in respect of their view that the site did not need a masterplan and that the development would not impact on the deliverability of land in the vicinity of the area. The Local Review Body considered that the guidance provided within the Notice of Review did seem to suggest that small groupings of houses did not require a masterplan, but they also took cognisance of the advice provided by the Planning Adviser that the supplementary guidance was no longer adopted, and in any event, would not apply to allocated sites which could be considered on the basis of the wider allocation.

The Local Review Body considered that the proposal would constitute a departure from the relevant policies H1: Housing Land and P1: Layout, Siting and Design due to the lack of a masterplan but the Applicant had not provided sufficient planning reasons to depart from the policy position intended to ensure a planned approach to settlement expansion. The Local Review Body also shared the Appointed Officer's concerns that the drainage proposals had not been justified and appeared contrary to the development plan.

The Local Review Body had throughout their discussion debated whether the proposal could be considered to contribute to sustainable development and agreed that due to the issues discussed the proposal would not contribute to sustainable development, being effectively ad hoc development on the edge of an existing settlement which was contrary to the planned approach set out in the Local Development Plan.

After due consideration, the Local Review Body **agreed**, by consensus, 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 dated 25 March 2022.