

ABERDEENSHIRE COUNCIL

LOCAL REVIEW BODY

VIRTUAL MEETING, FRIDAY, 25 NOVEMBER, 2022

Present: Councillors D Lonchay (Chair), S Adams, G Crowson (for LRB 558 only), J Goodhall, P Johnston, C Simpson, and C Victor (for LRB 554 only).

Officers: Planning Adviser to the Local Review Body (Senior Planner, James Wheater for LRB 554, 558, 566, 567 and 568), Planning Adviser to the Local Review Body (Senior Planner, Jim Martin for LRB 549), Legal Adviser to the Local Review Body (Solicitor, Amanda de Candia) and Senior Committee Officer (Frances Brown).

In respect of declaration of members' interests as required by the Code of Conduct for members, the following declarations were intimated.

- (1) Councillor J Goodhall declared an interest in Agenda Item 6 (LRB 566), by virtue of having a professional association with Garioch Glazing Limited, having supplied equipment to them. Councillor Goodhall concluded that he would withdraw from proceedings when that review was being determined.
- (1) Councillor P Johnston declared an interest in Agenda Item 6 (LRB 566), by virtue of the application site being within his ward. Councillor Johnston concluded that he would withdraw from proceedings when that review was being determined.

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 28 OCTOBER, 2022

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 28 October, 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 (2022).

RECONVENED REVIEWS

5. LRB 554 – NOTICE OF REVIEW AGAINST REFUSAL FULL PLANNING PERMISSION FOR CHANGE OF USE AND EXTENSION FROM BUSINESS (CLASS 4) TO DWELLINGHOUSE (CLASS 9) AT MUIRSKIE GRANGE, DURRIS, BANCHORY, AB31 6EB – REFERENCE: APP/2021/2863.

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 7), where the Local Review Body had deferred consideration of the Notice of Review, to allow them to follow further procedure, by way of seeking additional information, namely:

- (1) The Planning Service who would be asked to comment on whether the amenity and privacy issues could, in their view, be addressed if obscure glass were used on any, or all, of the Velux windows.
- (2) The Applicant should be asked to provide a swept path analysis, to demonstrate that parking and turning arrangements would be effective.
- (3) The Roads Service should be asked to comment on the swept path analysis.
- (4) Interested parties, who made representations to the Notice of Review, should be asked to make comment on the additional information requested.

The Local Review Body had before them the additional information requested, as presented on Pages 24 – 41 of the agenda pack and the Local Review Body then resumed consideration of the Notice of Review, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission, for the Change of Use, and Extension from Business (Class 4) to Dwellinghouse (Class 9), at Muirskie Grange, Durriss, Banchory, AB31 6EB – Reference: APP/2021/2863.

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.

The change of use and extension remains to be considered at odds with the pattern of development and character of the area. It does not form the functions expected of a residential dwelling located in the countryside and by virtue of this, the proposal fails to comply with 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. Insufficient information has been submitted to allow Roads Development to consider whether sufficient parking provision can be provided and turning can be safely achieved within the site, thus 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 R1: Special Rural Areas; 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.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2020 were: Policy B3: Tourist Facilities; Policy P1: Layout, Siting and Design; Policy R2: Development Proposals Elsewhere in the Countryside; 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. The Local Review Body determined that they did have sufficient information and proceeded to determine the review.

During discussion, The Local Review Body were unanimous in their view, having considered all of the information provided, that changing the use from office accommodation to a residential dwelling would not have a negative impact on the privacy of neighbouring residents. The Local Review Body were minded that

overlooking would not be an issue, there were no concerns over parking and there was sufficient garden ground available.

After due consideration, the Local Review Body **agreed** to UPHOLD the Notice of Review, and to REVERSE the Appointed Officer's Decision and **GRANT** Full Planning Permission, on the grounds that they had no concerns over overlooking or parking, and they considered that there would be sufficient garden ground available for the residential dwellinghouse.

The Local Review Body **agreed** that approval would be subject to planning conditions, which should include an existing public water supply, parking should be retained, and a time period of 3 years should be applied for the commencement of the development.

The Local Review Body **agreed** that the proposed development would contribute to sustainable development, and it would have no adverse impacts.

6. LRB 549 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, GARAGE / WORKSHOP AND HOLIDAY LODGE AT LAND TO THE NORTH WEST OF BEECHFIELD, BRIDGEND TERRACE, TURRIFF, ABERDEENSHIRE – REFERENCE: APP/2021/2402.

Local Review Body: Councillors D Lonchay (Chair), J Goodhall, and P Johnston.

With reference to the Minute of the Local Review Body meeting of 24 June 2022 (Item 6), where the Local Review Body had determined to DEFER consideration of the Notice of Review, to allow them to follow further procedure by way of:

- (1) Seeking information from Aberdeenshire Council's Rights of Way Officer/Outdoor Access Forum to determine if there were any rights of way which may run through the proposed development.
- (2) To seek information from the Applicant/Agent:
 - (i) Providing further details of the engineering requirements for the proposed new access and parking to serve the development (if drawings were available, that would be helpful).
 - (ii) Providing further details on the garden and the curtilage of the proposed dwellinghouse and holiday lodge.
 - (iii) Providing clarification on inaccuracies identified on the drawings relating to the septic tank.
- (3) To seek information from the Planning Service:
 - (i) Commenting on the proposed development, and the policy position with regards to Policy E2: Landscape.

- (ii) Commenting on the policy position with regards to the coalescence of a cluster and the boundary of Turriff (and its change).
- (4) To undertake an unaccompanied site inspection to the application site and surrounding area. To be arranged once all the information requested had been received.

The Local Review Body had before them the additional information requested, as presented on Pages 42 – 83 of the agenda pack and the Local Review Body then resumed consideration of the Notice of Review, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Erection of a Dwellinghouse, Garage/Workshop and Holiday Lodge at Land to the North West of Beechfield, Bridgend Terrace, Turriff, Aberdeenshire – Reference: APP/2021/2402.

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 24 June 2022, and a recap of the Appointed Officer's reasons for refusal, namely:

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

- (1) The planning authority considers that the application was for a development that was not in accordance with the Aberdeenshire Local Development Plan 2017. The development does not comply with Policy R2 Housing and employment development elsewhere in the countryside contained in the Aberdeenshire Local Development Plan 2017. The house proposed was not located on a brownfield opportunity site, it was not required for a worker in a primary industry and would not be an addition to an existing cluster of at least five houses. In addition, Turriff is not a settlement within Appendix 4 of the Aberdeenshire Local Development Plan 2017.
- (2) The development does not comply with PR1 Protecting important resources contained in the Aberdeenshire Local Development Plan 2017 as it could not be demonstrated that the proposed drainage arrangements for the holiday let would not have an adverse impact on the existing trees and their root system.

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 C1: Using Resources in Buildings, Policy C4: Flooding, Policy RD1: Providing Suitable Services, and Policy RD2: Developers' Obligations.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2020 were: Policy E2: Landscape; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land; Policy R2: Development Proposals Elsewhere in the Countryside 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 and 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 Planning Service had confirmed, within Page 50-52 of the agenda pack that the proposed development would not conflict with Policy E2, and it would have no adverse impact on the landscape setting.
- (2) When considering cohesive groups, the Planning Service had confirmed that to form a cohesive group, it was not just boundaries. The Planning Service had considered that there was no connectivity due to the distance between the two houses and a slope and trees provided a visual separation.
- (3) If members were supportive of the application, a condition could be attached, to ensure tree protection measures were in place prior to the start of the development.

During discussion, the Local Review Body considered that they would require further information in terms of delineation of the residential curtilage of the proposed development. While the outdoor access officer had provided comments with regards to rights of way access it would be helpful to determine the residential curtilage of the proposed development.

After due consideration, the Local Review Body **agreed** to **DEFER** consideration of the Notice of Review, to allow them to follow further procedure by way of seeking a revised Plan from the Applicant, delineating the residential curtilage of the proposed development.

7. LRB 558 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT SITE ADJACENT TO 8 WESTFIELD AVENUE, INVERURIE – REFERENCE: APP/2022/0878.

Local Review Body: Councillors D Lonchay (Chair), G Crowson, J Goodhall and P Johnston.

With reference to the Minute of the Local Review Body meeting of 30 September 2022 (Item 6), where the Local Review Body had determined to DEFER the Notice of Review, to allow them to follow further procedure, by way of requesting:

- (1) The applicant should be asked to provide a Roads Parking Survey to identify the need for off-street parking.
- (2) The Roads Parking Survey should then be forwarded to the Roads Development Service for comment.
- (3) The Local Review Body would undertake an accompanied site inspection to the application site and surrounding area to allow them to consider whether the proposed development of a modern design would be considered sensitive to the character and nature of the area.

The Local Review Body had before them the additional information requested, as presented on Pages 84 – 100 of the agenda pack and the Local Review Body then resumed consideration of the Notice of Review, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Erection of a Dwellinghouse, at a Site Adjacent to 8 Westfield Avenue, Inverurie – Reference: APP/2022/0878.

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 30 September 2022, and a recap of the Appointed Officer's reasons for refusal, namely:

- (1) The application does not comply with Policy P1: Layout, siting and design and Policy P3: Infill and householder developments within settlements (including home and work proposals) of the Aberdeenshire Local Development Plan as the proposed development would introduce a much larger element into the street scene on a constrained site which would be at odds with the surrounding context in terms of external appearance and insufficient private garden ground provision.
- (2) The application does not comply with Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017 as the proposal does not meet applicable road safety standards, specifically in terms of providing an off-street car parking space.

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

P3: Infill and Householder Developments within Settlements (including home and work proposals); Policy E1: Natural Heritage and RD1: Providing suitable services.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2022 were: Policy P1: Layout, Siting and Design; Policy P3: Infill Developments within Settlements and Householder Developments (including Home or Work Proposals); Policy RD1: Providing Suitable Services.

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. The Local Review Body agreed that they did have sufficient information and proceeded to determine the review.

During discussion, opposing views were expressed.

Councillor Johnston, seconded by Councillor Goodhall moved a motion to Uphold the Notice of Review and GRANT Full Planning Permission, on the grounds that the proposed development would contribute to sustainable development, they had no concerns over the parking provision, it would be a relatively small intrusion in the area and would have limited impact, and would be in compliance with Policy P1 and Policy P3.

Councillor Lonchay, seconded by Councillor Crowson moved an amendment, to dismiss the Notice of Review, and to REFUSE Full Planning Permission on the grounds that the development would in their view impose on the surrounding houses in the area, be out of character with the adjacent properties and they had concerns over on street parking provision.

The members of the Local Review Body then voted: -

For the motion (2) Councillors Goodhall and Johnston.

For the amendment (2) Councillors Crowson and Lonchay.

As there was an equality of votes, the Chair, in compliance with Aberdeenshire Councils Scheme of Governance, Standing Orders, Part 1, Section 5.4 (3) used his right to a casting vote and thereby voted for the Amendment.

After due consideration, the Local Review Body **agreed** 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 issued on 15 June 2022, on the grounds that the development would be imposing on the houses in the surrounding area, it would be out of character to adjacent properties and ongoing concerns over issues with on street parking.

The Local Review Body **agreed** that the proposed development would not contribute sustainable development, and there were no other material circumstances to depart from the policy position.

NEW REVIEWS

8. LRB 566 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF SHED AND CHANGE OF USE TO CLASS 6 STORAGE AND DISTRIBUTION (RETROSPECTIVE) AT HARDFORD FARM, ST KATHERINES, ABERDEENSHIRE, AB51 8TE – REFERENCE: APP/2021/2026.

Local Review Body: Councillors D Lonchay (Chair), S Adams, and C Simpson.

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 Full Planning Permission for the Erection of a Shed and the Change of Use to Class 6 Storage and Distribution (Retrospective) at Hardford Farm, St Katherines, Aberdeenshire, AB51 8TE – Reference: APP/2021/2026.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested a site inspection and an assessment 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 five valid representations had been received during the consultation period for the application, prior to determination, which objected to the proposed development and the issues raised within those representations included:

- Access to the track along the east of the site.
- Increase in traffic impacting on Barthol Chapel and its school.
- Inadequate infrastructure to serve the use in the rural location.

Further to consultation undertaken, it was reported that:

- (1) Environmental Health had requested a noise impact assessment to determine the impact of the proposal in terms of vehicle movements and plant noise.

- (2) Roads Development and the Transportation Service had provided a joint response. They had requested additional information, for which revised plans had been submitted. It was reported that they had objected to the proposal on the grounds that it is contrary to Policy P1 and Policy RD1, as the proposal was not well connected to existing developments or public transport services.
- (3) National Grid had been consulted but had not responded within the consultation period.

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

- (1) 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. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development. However, adverse impacts significantly and demonstrably outweigh the benefits of the proposal as the operation of such a business in such a remote location is unsustainable.
- (2) The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. It is a small-scale commercial development that lies outwith the Rural Housing Market Area, and therefore does not meet the criteria for Policy R2 Housing and employment development elsewhere in the countryside.
- (3) The proposed development would have a negative impact on the amenity of the area as the increase in HGV traffic would place excessive demands on the existing road infrastructure, contrary to Policy P1 Layout, siting, and design.
- (4) The proposed development is far from public and active transport connections, failing to promote intermodal shifts contrary to Policy P1 Layout, siting, and design.
- (5) The proposed development would have a negative impact on the amenity of the nearby settlement Barthol Chapel by increasing HGV traffic through it, contrary to Policy P1 Layout, siting and design and the Barthol Chapel Settlement Statement.
- (6) It has not been established that the development would not cause health and safety issues due to the proximity of a gas pipeline. The proposal fails to comply with Policy P4 Hazardous and potentially polluting development and contaminated land.

Reason for Decision

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.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy R2: Housing and Employment Development Elsewhere in the Countryside; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Development and Contaminated Land; Policy E2: Landscape; Policy HE1: Protecting Historic Buildings, Sites, and Monuments; and Policy RD1: Providing suitable services.

The Local Review Body considered that the relevant policies, as contained within the proposed Local Development Plan 2022 were: Policy E2: Landscape; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Development and Contaminated Land; Policy HE1: Protecting Historic Buildings, Sites and Monuments; Policy R2: Development Proposals Elsewhere in the Countryside; and Policy RD1: Providing Suitable Services.

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 a question raised, the Planning Adviser confirmed that in the event of the Notice of Review being dismissed, the Applicant could, following cessation of the current use, apply for Planning Permission for the erection of the building for agricultural uses. Enforcement action would be discretionary, and it would not necessarily be the case that dismissal of the proposal would lead to a requirement to remove the building.

The Local Review Body were unanimous in their view, that they did have enough information and proceeded to determine the review.

The Local Review Body considered that the main determining issue for the review before them was whether the principle of the development could be supported, given the location within the Aberdeen Housing Market Area and when considering Policy R2 Housing and employment elsewhere in the countryside of the Aberdeenshire

Local Development Plan 2017. That was considered the key policy of the Development Plan used to determine the principle of development and the concurrent Policy R2 of the Proposed Aberdeenshire Local Development Plan 2022 would be relevant to the review and introduced a different classification of land designations although the generality of the allowances in the area of the site were restrictive for the type of development proposed.

The Local Review Body noted that the Applicant's Notice of Review had maintained that there were significant material considerations, in that the proposal would not generate significant vehicle movements, modal shift and public transport considerations were not relevant to the proposal, and the proposal would not affect the area's amenity.

When considering reasons three, four and five for refusal which related to the vehicular access to the site, the Local Review Body acknowledged that it was unlikely that the development would result in significant HGV movements, however, they also took cognisance of the response from the Planning Officer and Roads Authority which had stated that the site was considered to be unsuitable for the proposed use, it would fail to promote modal shift and would have an adverse impact on the amenity of the area and that of the settlement of Barthol Chapel, which were all contrary to the principles of policy P1 Layout Siting and Design.

The Local Review Body then considered the potential hazard with respect of the Gas Pipeline, acknowledging the Appointed Officer's concerns that the proposal may introduce further risk due to it being a place of employment. As National Grid had not responded during the consultation period for the application, it was difficult to assess any potential risk and as such the proposal would fail to comply with Policy P4 Hazardous and potentially polluting development and contaminated land.

During discussion, the Local Review Body gave consideration as to whether the proposed development would be in compliance with Policy R2. Having considered all of the information before them, the Local Review Body were unanimous in their view, that the proposal would not comply with Policy R2 and the proposed use in that location would not be considered to contribute to sustainable development and there were no significant material reasons to depart from the policy position. As part of their deliberations the Local Review Body supported the Appointed Officer's reasons for refusal in relation to the other matters raised within the Notice of Review.

After due consideration, the Local Review Body **agreed** 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 issued on 10 June 2022, on the grounds that the proposed development would not contribute sustainable development, and there were no other material circumstances to depart from the policy position.

9. LRB 567 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR CHANGE OF USE OF LAND TO DOMESTIC AND ALTERATIONS AND EXTENSION TO DWELLINGHOUSE (AMENDED DESIGN FROM APP/2021/1824) AT 9 HIGH SHORE, MACDUFF, ABERDEENSHIRE, AB44 1SL – REFERENCE: APP/2022/0724.

Local Review Body: Councillors D Lonchay (Chair), S Adams, J Goodhall, P Johnston, and C Simpson.

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 Full Planning Permission for the Change of Use of Land to Domestic, and Alterations and Extension to a Dwellinghouse (Amended Design from APP/2021/1824) at 9 High Shore, Macduff, Aberdeenshire, AB44 1SL – Reference: APP/2022/0724.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested a review of the documents as presented before them, and no further procedure. 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 one valid representation had been received during the consultation period for the application, prior to determination, which objected to the proposed development and the issues raised within that representation included:

- Overdevelopment that would dominate No.7 High Shore, and hem in that properties garden area.
- The proposal would have an adverse impact on the public area outside Macduff Marine Aquarium and would detrimentally alter its open character.
- Difficult to understand how a vehicle can access the proposed garage safely.
- Loss of privacy and light to the occupants of No.7 High Shore.

Further to consultation undertaken, it was reported that Roads Development had not raised any objections to the proposal.

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

- (1) 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. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development. However, adverse impacts significantly and demonstrably outweigh the benefits of the proposal. 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 is considered contrary to Policy P1 Layout, siting and design, as the proposed design and scale of the development fail to demonstrate that the

proposal would be in keeping with the character of the existing dwelling and the surrounding properties; the proposals represent a disproportionate and incongruous addition which would have a detrimental impact on the visual amenity of the host property and the wider setting.

- (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 is considered contrary to Policy P1 Layout, siting and design, as the design and siting of the proposed boundary walls and garage, combined with the length of the ground floor extension would have an adverse impact on the open character of the existing dwelling and the neighbouring garden areas to the rear. The development would therefore have an adverse visual impact on the established welcoming, open character of the locality.

Reason for Decision

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.

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 P3: Infill and Householder Developments within Settlements (including home and work proposals); and Policy RD1: Providing Suitable Services.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2022 were: Policy P1: Layout, Siting and Design; Policy P3: Infill Developments within Settlements and Householder Developments and Policy RD1: Providing Suitable Services.

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.

During discussion opposing views were expressed.

While the Local Review Body considered that site would in principle be capable of expansion and could be seen to enhance the local area, some concerns were expressed by some members with regards to the proposed design and whether the full-length glazing element on the first floor could be seen to create a balcony impression. It was suggested that if the applicant were amenable to submitting a revised design, reducing the glazed elements on the first floor, that may allow compliance with Policy P1 and Policy P3.

Councillor Lonchay, seconded by Councillor Adams moved a motion to Uphold the Notice of Review and GRANT Full Planning Permission, on the grounds that the proposed development would contribute to sustainable development, it would enhance the local area, and would be in compliance with Policy P1 and Policy P3.

Councillor Johnston, seconded by Councillor Goodhall moved an amendment, to DEFER consideration of the Notice of Review, to allow the Local Review Body to follow further procedure, by way of seeking confirmation from the applicant, as to whether they would be amenable to reducing the glazed elements on the first floor, and if so, providing a revised design which should be provided to all interested parties for comment.

The members of the Local Review Body then voted: -

For the motion (2) Councillors Adams and Lonchay.

For the amendment (3) Councillors Goodhall, Johnston, and Simpson.

After due consideration, the Local Review Body **agreed** by a majority to **DEFER** consideration of the Notice of Review, to allow the LRB to follow further procedure, by way seeking confirmation from the applicant on whether they would be amenable to reducing he glazed elements on the first floor, and if so, provide a revised design which would then be provided to all interested parties for comment.

10. LRB 568 – NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE, STUDIO/GALLERY AND WORKSHOP (CLASS 10) AT SITE AT MIDDLETON OF TROUP, GAMRIE, BANFF, ABERDEENSHIRE – REFERENCE: APP/2022/0444.

Local Review Body: Councillors D Lonchay (Chair), S Adams, J Goodhall, P Johnston, and C Simpson.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the applicant, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Erection of a Dwellinghouse, Studio/Gallery and Workshop (Class 10), at a Site at Middleton of Troup, Gamrie, Banff, Aberdeenshire – Reference: APP/2022/0444.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had requested one or more

hearing sessions, a site inspection and an assessment 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 in response to the application.

Further to consultations undertaken, it was reported that:

- (1) Developer Obligations had confirmed that they would not require additional contributions due to a previous S69 Legal Agreement under APP/2012/2347.
- (2) Contaminated Land had confirmed that they had no comment to make on the application.
- (3) Flood Risk and Coast Protection had confirmed that they did not object to the proposal, on the basis that permitted development rights for a 3m buffer strip would be removed and that the finished floor levels are not set lower than a minimum of 1.01m.
- (4) Roads Development had confirmed that they had no objection to the proposal, subject to conditions.

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 proposal does not comply with policy R1 Special rural areas or policy R2 Housing and employment development elsewhere in the countryside as it does not meet any of the criteria for supporting a new dwellinghouse in the countryside and the workshop is not considered to be a small-scale employment proposal. 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. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development. However, adverse impacts significantly and demonstrably outweigh the benefits of the proposal.
- (2) The development does not comply with policy P1 Layout, siting, and design of the Aberdeenshire Local Development Plan 2017 as the proposed design of the dwellinghouse and gallery/studio and work shop are inappropriate in the local context and immediate rural area and would therefore result in an unacceptable visual impact on the character of the area.
- (3) The development does not comply with policy E2 Landscape of the Aberdeenshire Local Development Plan 2017 as the proposed siting of the

dwellinghouse and gallery/studio and workshop would be highly prominent and would have a negative visual impact on the special landscape area.

- (4) The development does not comply with policy PR1 Protecting important resources of the Aberdeenshire Local Development Plan 2017 as the applicant has failed to demonstrate that it would not result in the loss of prime quality agricultural land (classification 3.1).
- (5) The development does not comply with policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017 as insufficient information has been provided to demonstrate that the development can be serviced by private drainage arrangements.

Reason for Decision

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. The proposed development was assessed against the Scottish Planning Policy principles of sustainable development. However, adverse impacts significantly and demonstrably outweigh the benefits of the proposal.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2017 were: Policy R1: Special Rural Areas; Policy R2: Housing and Employment Development Elsewhere in the Countryside; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land; Policy E2: Landscape; Policy PR1: Protecting Important Resources; Policy C1: Using Resources in Buildings; Policy RD1: Providing Suitable Services and Policy RD2: Developer's Obligations.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2022 were: Policy C1: Using Resources in Buildings; Policy E2: Landscape; Policy P1: Layout, Siting and Design; Policy P4: Hazardous and Potentially Polluting Development and Contaminated Land; Policy PR1: Protecting Important Resources; Policy R1: Special Rural Areas; Policy R2: Development Proposals Elsewhere in the Countryside; 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) In terms of the visual impact from the development, if approved, the approval could seek that the applicant provide a landscaping scheme, to show how the development could blend into the site.
- (2) When considering the application of Policy, the Local Review Body could request that the applicant submit a Business Plan to allow the Local Review Body to determine if there was a need for a new dwellinghouse to support the business and the details of how the business would operate.

During discussion, the Local Review Body were unanimous in their view that they did not have enough information to determine the application. Having considered all the information before them, the Local Review Body determined that they would require additional information in terms of the quality of the land and a business plan to allow the Local Review Body to understand whether a new dwellinghouse was essential to allow the tourist business to proceed.

After due consideration, the Local Review Body **agreed** to **DEFER** consideration of the Notice of Review, to allow them to follow further procedure by way of:

- (1) To request that the applicant provide an Agricultural Land Classification Assessment and a Business Plan for the proposed development; and
- (2) To undertake an accompanied site inspection to the application site, to allow members to gain a real understanding of whether the proposal would fit into the wider landscape.