



Aberdeenshire Council Local Review Body

Reference LRB 420 APP/2017/2082

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Burnhead, Westhill.
- Application for review by Garth Way & Sally Winning against the decision by an appointed officer.
- Application reference APP/2017/2082 for full planning permission for the change of use of existing dwellinghouse to office; refurbishment of existing buildings; demolition of block outbuilding and erection of dwellinghouse refused by decision notice dated 16 February 2018.
- Application drawings: Location Plan @ nts (drawing no: A.01); Location Plan @ 1/10000 scale (drawing no: A.02); Existing Site Layout Plan @ 1/400 scale (drawing no. A.03); Proposed Site Layout Plan @ 1/400 scale (drawing no. A.04); Site Cross Section Existing View A @ 1/200 scale (drawing no. A.05); Site Cross Section Existing View B @ 1/200 scale (drawing no. A.06); Site Cross Section Proposed View A @ 1/200 scale (drawing no. A.07); Site Cross Section Proposed View B @ 1/200 scale (drawing no. A.08); Office Plan View @ 1/50 scale (drawing no. A.09); Proposed House Ground Floor Plan @ 1/75 scale (drawing no. 201); Proposed House First Floor Plan @ 1/75 scale (drawing no. 202); Proposed House North Elevation @ 1/75 scale (drawing no. 401); Proposed House South Elevation @ 1/75 scale (drawing no. 402); Proposed House East Elevation @ 1/75 scale (drawing no. 403); Proposed House West Elevation @ 1/75 scale (drawing no. 404).
- No site inspection took place

Date of Decision: 31 July, 2018

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

- 1.2 The LRB reviewed the determination of the above application for planning permission at its meeting held on 29 June 2018. The LRB was attended by Councillors F C P Hood (Chair), R Cassie, J Hutchison, P K Johnston, A Ross, and I Sutherland.
- 1.3 The LRB was shown projected plans and photographs by the Planning Adviser. These showed the application site and its relationship to the surroundings.
- 1.4 The LRB noted the applicants' reasoning for the Notice of Review appeal and gave consideration to whether there could be an opportunity for the appellant to provide further information. However, the LRB noted that the Notice of Review appeal had been submitted the day before the 3-month deadline and under the terms of the Regulations there would therefore no longer be an opportunity for the appellant to withdraw the appeal and resubmit with further supporting information. After taking further advice from the Legal Adviser, who said that the applicants could have included further additional information at the time when they submitted the Notice of Review had they wished to do so, the LRB agreed that they would proceed to determine the proposal currently before them and that there was sufficient information to consider the current proposal and that no further information was required.

2.0 Proposal

- 2.1 The site lies to the east of Westhill in the open countryside, within the Aberdeenshire Greenbelt and a short distance from the boundary with Aberdeen City. The site is accessible via an unsurfaced private track from a minor unadopted road which leads to the U95C.
- 2.2 The applicant seeks to change the use of the existing dwellinghouse to an office, refurbish some existing buildings, demolish existing outbuildings, and replace with a detached dwellinghouse. The proposed development is being promoted in association with operation of a traditional croft and agro-forestry enterprise on the site.
- 2.3 The existing farmhouse to be converted to an office, is a one and a half storey traditional property with dormers facing south with a porch on the south elevation and an extension on the west elevation providing outhouses and garage space.
- 2.4 To the south and attached to the byre are a number of lean-to buildings which are considered more recent additions and a detached stable block lies further south. It is proposed to remove these buildings to allow for the proposed new dwellinghouse. The proposed dwellinghouse would be a one and a half storey type dwelling with glazing on the south elevation. The proposed finishes consist of timber cladding with a metal roof and timber windows. The existing septic tank serving the farmhouse is positioned between the steading and the walled garden, the existing

property is already served by mains water supply and electricity. The proposed house would access these networks, while it is proposed to provide a new septic tank to serve the proposed dwellinghouse.

- 2.5 The planning application had been supported by number of additional documents, plans, visualisations and statements as set out in section 3 of Report of Handling (pages 119-120 of agenda papers).

3.0 Reasoning

- 3.1 The main determining issue in this review was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the greenbelt.

- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ALDP) policies and these were as follows:

Policy R1 – Special Rural Areas;

Policy P1 - Layout, Siting and Design;

Policy C1 – Using resources in buildings;

Policy RD1 – Providing suitable services; and

Policy RD2 – Developer’s obligations.

- 3.3 The LRB gave consideration as to whether a site inspection would be helpful but agreed that this was unnecessary in light of the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Advisers presentation and series of photographs. It was noted that there had been 1 letter of support to the original application and no further representations received in respect of the Notice of Review.

- 3.4 The LRB noted that the site was located within the Greenbelt as identified on Map 4 in Appendix 3 (page 97) of the ALDP 2017 and as such it was clear that Policy R1 on Special Rural Areas was the applicable policy whereas Policy R2 which related to housing and employment proposals elsewhere in the countryside area, but only outwith the Greenbelt and coastal zone, did not apply in this case.

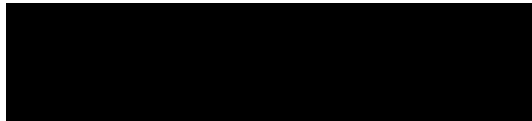
- 3.5 The LRB also acknowledged the concerns that had been raised within the Report of Handling about certain aspects of the proposals being unclear or lacking in detailed information e.g. no plans provided for the upper floor in the existing dwelling, no details of the refurbishment of the existing buildings, no structural survey of the existing dwelling and no agricultural worker calculation report had been submitted in support of the croft business.

- 3.6 The LRB also noted the contents of the pre-planning advice that had been given to the applicant in August 2015 (letter included on pages 220-221 of agenda papers) but drew attention to the fact that it related to Policies from the now superseded 2012 Aberdeenshire Local Development Plan. The policy position had changed with the subsequent adoption of the ALDP 2017 in April 2017, and Policy R1: Special Rural Areas can allow for the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit. Policy R1 also allows for the replacement of a single non-vernacular building on the same footprint, but it must be for the same use.
- 3.7 The LRB were unanimous in their view that the current proposal was not a replacement dwelling (as the proposal is to remove existing agricultural buildings and erect a new dwellinghouse i.e. it is a different use which would also be on a different and much larger footprint) and therefore none of the applicable criteria listed in Policy R1 would provide support towards the principle of the current proposal.
- 3.8 The LRB also agreed with the reasoning that had been given for the 2nd reason for refusal in that the proposed siting of the dwellinghouse is inappropriate as it is not located on the same site as the current buildings it would replace, and that the scale and footprint of the proposed dwelling is significantly larger than the buildings it proposes to replace. It would also be prominent particularly from the south and as such due to its siting and scale the proposal fails to meet the criteria of Policies R1 and P1.
- 3.9 In the circumstances, and in the absence of any over-riding material considerations, the LRB resolved to uphold the decision of the Appointed Officer for the reasons set out below.

4.0 Reasons for refusal

- (1) The proposal does not comply with Policy R1 Special Rural Area of the Aberdeenshire Local Development Plan 2017 as no information has been provided to demonstrate compliance with any of the following criteria:
- the development is an extension to an existing building or an use ancillary to the main use;
 - the development is for the purposes of agriculture, forestry, horticulture, nature conservation or essential public infrastructure;
 - the development is for a recreational use that is compatible with its agricultural or natural setting;
 - the development is for the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit;
 - the development is for accommodation required for a worker in a primary industry;

- the development identified in the National Planning Framework,
 - the development of minerals under Policy R3 and waste facilities under Policy PR3 may;
 - for developments under Policy PR2 where they meet an established need and where it can be adequately demonstrated that no alternative location can be found; or
 - the development is for the replacement of a single non vernacular building on the same footprint, and for the same use.
- (2) The proposal does not comply with Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan 2017 as the layout and scale of the development proposed are deemed to be inappropriate for this Greenbelt location.



Geraldine Fraser
Acting Head of Legal and Governance

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.