

**Aberdeenshire Council Local Review Body**

**Reference LRB 415 - APP/2017/2765**

**Review Decision Notice**

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Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: 17 Hilltop Gardens, Westhill
- Application for review by Mr & Mrs Grove c/o Burness Paull LLP against the decision by an Appointed Officer
- Application reference APP/2017/2765 for full planning permission for change of use of public open space to garden ground, alterations to dwellinghouse and erection of double garage/store refused by decision notice dated 17 December 2017.
- Application drawings: Existing Ground Floor Plan @ 1/50 scale (drawing no: RJM/15022/D1 P1 of 3); Existing Block Plan @ 1/100 scale (drawing no: RJM/15022/D1 P2 of 3); Existing Elevations @ 1/100 scale (drawing no: RJM/15022/D1 P3 of 3); Proposed Ground Floor Plan @ 1/50 scale (drawing no: RJM/15022/SP3a P 1 of 5); Location Plan and Proposed Block Plan @ 1/2500 and 1/100 scale (drawing no: RJM/15022/SP3a P2 of 5); Proposed Elevations @ 1/100 scale (drawing no: RJM/15022/SP3a P3 of 5); Proposed Elevations (without substation) @ 1/100 scale (drawing no: RJM/15022/SP3a P4 of 5); Proposed Roof Plan @ 1/100 scale (drawing no: RJM/15022/SP3a P5 of 5); and Visibility Splay @ 1/200 scale (drawing no: RJM/15022/VS).
- An unaccompanied site inspection took place on 29 June 2018.

Date of Decision: 31 July, 2018

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**Decision**

The Local Review Body (LRB) agrees to vary the decision reviewed by it and to grant full planning permission subject to the conditions specified in paragraph 4.0 below.

**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, P K Johnston, J Hutchison and I Sutherland. As part of the review the LRB carried out an unaccompanied site inspection earlier on the same day, which the LRB had previously agreed to undertake when it deferred consideration of the case at its previous meeting held on 25 May 2018.

- 1.3 Having undertaken the earlier site inspection and having also now received the additional information requested at their earlier meeting on 25 May 2018, from the Planning Service and the agent's response, in respect of the identification of the area as public open space and the historic planning permission from 1982, the LRB agreed that there was now sufficient information before it to consider the review and that no further information was required.

## **2.0 Proposal**

- 2.1 The site is located in the north of Westhill within a large residential area that was originally approved planning permission in 1982.
- 2.2 The proposal is for the erection of a double garage to replace the single garage currently integrated within the existing dwellinghouse, and the erection of three small stores. The current garage space would provide extended accommodation with some alteration to the existing dwelling including the removal of the bay window at the front of the existing house.
- 2.3 The new double garage would be linked to the dwelling by a small roof and steps from the path on the south elevation with the removal of the existing boundary wall.
- 2.4 The design of the garage would reflect the existing dwelling, with hipped roof, matching wall finish and matching materials on the roof. Small windows will be positioned in the south east elevation along with two rooflights. Access will be taken direct from the public road.
- 2.5 A previous application APP/2016/0814, for same proposal had been refused planning permission in June 2016.
- 2.6 A planning statement and neighbours report had been submitted in support of application.

## **3.0 Reasoning**

- 3.1 The main determining issue in this review was whether the proposals would result in the loss of public open space and whether that would have an unacceptable loss of amenity or detrimental impact on the layout and character of the existing development.

- 3.2 The LRB agreed that the relevant policies contained in the adopted ALDP 2017 had been identified in the Report of Handling and these were as follows:
- Policy P1 – Layout, siting and design,
- Policy P3 – Infill and householder developments within settlements,  
and
- Policy PR1 – Protecting important resources.
- 3.3 The LRB agreed that their earlier site inspection had been extremely useful as they commented that the photographs had given an impression that the site was a bit larger than what actually exists. The site inspection had also allowed the LRB to view the general character and layout of other parts of the same development, as well as the backland children's play areas that had been designed for that purpose, and also the recent planning approval (APP/2017/2408) for a boundary fence on a corner site at no. 24 Hilltop Gardens.
- 3.4 During their discussion, the LRB took full account of the reason for refusal as set out in the decision notice as well as the statement and supporting information provided in support of the Notice of Review from the agent.
- 3.5 In general terms the LRB were of the view that the proposals would not erode the general character or adversely impact on the amenity of the area. Although the existing development is of a reasonable high density, the lack of boundary treatments to the front and side gardens of properties has helped to provide a degree of harmony and the LRB noted that there were many small pockets of green space throughout the entire development. The LRB also noted that adherence to the title deeds by the owners of the properties had meant that these small pockets of open space contributed to the overall character of the development in terms of its layout, siting and design.
- 3.6 It was evident that the applicant owned the entire site and maintained the existing area of amenity space. Whilst the LRB recognised that public open space doesn't have to be owned by the council, it was also acknowledged that virtually every corner of this development had similar areas of ground that had always been privately owned and contributed to the overall streetscape.
- 3.7 In this case the LRB were of the view that the proposed development was reasonable in terms of its design, scale and proposed materials. The small loss of amenity space causing any detriment to existing residents would be very minimal as the proposed double garage would only extend slightly beyond the existing electricity substation but the new driveway and adjacent undeveloped greenspace (grass and tree) would

help to maintain the character and general feeling of openness on this corner site.

- 3.8 The LRB were however in agreement that a specific landscaping condition would require to be added to the approval ensuring that the vegetation, tree and area of grass sited immediately adjacent to the proposed driveway and garage would need to be retained, and that further details of the proposed new planting (mixed shrubs) and hard landscaping (driveway finish) would also be required to ensure that the proposal would not conflict with either Policies P1 and P3 of the ALDP. It was also noted that additional conditions relating to all finishing materials matching the existing house and standard Roads Development conditions would be included on the approval.
- 3.9 In conclusion, and in the absence of any 'other material considerations', the LRB resolved to reverse the decision of the Appointed Officer, thereby approving Full Planning Permission subject to the conditions set out below.

#### 4.0 Conditions

- (1) No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) Existing landscape features and vegetation to be retained.
- b) Protection measures for the landscape features to be retained.
- c) Existing and proposed finished levels.
- d) The location of new shrubs and grassed areas.
- e) A schedule of planting to comprise species, plant sizes and proposed numbers and density.
- f) The design and materials of the proposed driveway.
- g) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

**Reason:** To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the

proposed development into the local street scene in the interests of the visual amenity of the area.

- (2) The first 5 metres of the driveway measured from the edge of the carriageway shall be fully paved and the maximum gradient of the first 5 metres of the new driveway shall not exceed 1:20 gradient and access shall be internally drained and formed in such a way to prevent any flow of surface water either onto or from the public road. The proposed garage must be set back at least 6 metres from the edge of the public road and prior to occupancy of the development off street parking for 3 cars, surfaced in hard standing material must be provided within the site. Once provided, all parking and turning areas shall thereafter be permanently retained as such.

**Reason:** To ensure the timely completion of the driveway to an adequate standard to prevent the carriage of loose driveway material on to the public road and to ensure the retention of adequate off-street parking facilities within the site, all in the interests of road safety.

- (3) No development in connection with the permission hereby granted shall commence and the driveway hereby approved shall not be brought into use unless visibility splays, measuring 2.4 metres x 25 metres to be formed on either side of the junction of the vehicular access with the public road has been provided. Once formed, the visibility splays shall be permanently retained thereafter, and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

**Reason:** To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

- (4) No works in connection with the development hereby approved shall commence unless details of the specification and colour of all roof, wall, windows, doors, garage door and rainwater goods materials to be used in the external finish for the approved development have been submitted to and approved in writing by the planning authority. The development shall not be brought into use unless the external finish has been applied in accordance with the approved details.

**Reason:** In the interests of the appearance of the development and the visual amenities of the area.

### **Informatives**

1. **The length of this permission:** This planning permission will lapse on the expiration of a period of three years from the date of the decision notice, unless the development is begun within that period. (see section 58 (1) of the Town & Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start the development. Failure to do so is a breach of planning control and could result in the planning authority taking enforcement action. [See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Initiation of Development' Notice as appended.
3. **Notice of the completion of the development:** As soon as possible after the development is finished, the person who completed the development must write to the planning authority to confirm that the development has been completed. [See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Completion of Development' Notice as appended.
4. Adequate precautions shall be taken to protect any Statutory Undertaker's plant which may be affected by the works/development. The applicant should be aware that there are high voltage and low voltage underground cables in the vicinity of the new access and underneath the proposed new garage which will require to be diverted to a new location before any planned works can start.



**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.