

APPEAL DECISION (LRB)
Appeal Reference: LRB 430
Planning Reference: APP/2018/0933
Planning Proposal: Formation of access
Summary of Decision <p>The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 policies and that these were Policy P1 Layout, siting and design and Policy R2 Housing and employment development elsewhere in the countryside.</p> <p>The LRB unanimously agreed that, as the existing access was not to be closed off, the proposed, additional access would be too close to the existing access for it to be deemed safe. The proposal was unacceptable because of the implications it would have for road safety.</p> <p>It was noted that an alternative solution could be explored further by the applicant in direct consultation with Transport Scotland.</p>
Policy Issues <p>Application deemed not to be compliant with Policy P1 Layout, siting and design and Policy R2 Housing and employment development elsewhere in the countryside.</p>
Additional Points <p>None.</p>
Actions <p>Note Decision</p>



Aberdeenshire Council Local Review Body

Reference LRB 430 APP/2018/0933

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Kinloch Manor, St Fergus
- Application for review by Mr William Campbell against the decision by an appointed officer
- Application reference APP/2018/0933 for full planning permission for formation of an access refused by decision notice dated 20 July 2018.
- Application drawings: Location Plan @ 1/25000 scale (drawing no: 1533/LOC); Site Plan @ 1/1250 scale; Proposed new driveway @ 1/500 scale; Driveway section @ nts and Proposed Plan @ scale 1/200 & 1/250 scale (drawing no: 1533/200).
- No site inspection took place

Date of Decision: 19 December, 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 as set out 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 30 November 2018. The LRB was attended by Councillors F C P Hood (Chair), I Davidson, J Hutchison and A Ross.
- 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 agreed that there was sufficient information before it in order to consider the Notice of Review and that no further information or site inspection was required.

2.0 Proposal

- 2.1 Full Planning Permission is sought to form a new access at Kinloch Manor, St Fergus. The existing site comprises a single storey detached dwellinghouse (Kinloch Manor) with a large area of open space to the east. Beyond this area of open space lies the A90 which runs between Peterhead and St Fergus. A number of cottages lie to the south, the nearest of which is approximately 50 metres away. The new access would only serve Kinloch Manor and would give direct access onto the A90. The new access will cover an area of approximately 130m².

- 2.2 The dwellinghouse had originally been granted Planning Permission in Principle under (APP/2016/1041) and a subsequent Approval of Matters Specified in Conditions for Condition 1 (Layout, Siting, Design Materials, Landscaping, Trees, Levels, Cross Section, Drainage, Access and Parking) was approved under (APP/2016/2419). Both approvals had shown access to the A90 via the existing Inverquinzie access road located to the south.

3.0 Reasoning

- 3.1 The main determining issue in this review was the suitability and safety of the proposed new means of access.

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

Policy P1 Layout, siting and design; and

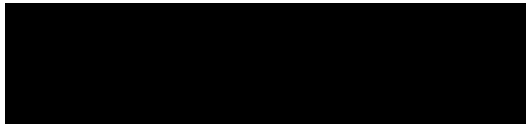
Policy R2 Housing and employment development elsewhere in the countryside.

- 3.3 The applicant had requested that the review be undertaken on the basis of a site inspection. The LRB gave consideration as to whether a site inspection and/or a hearing would be helpful but agreed that these would be unnecessary in light of the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Adviser's presentation and series of photographs. In response to questions the Planning Adviser provided further information about the visibility at the existing junction and references to the access further to the north.

- 3.4 From the applicant's Notice of Review statement it was noted that the current access is deemed to be very dangerous on the corner and the entrance can get very busy. The case was also made that there are other multiple entrances to properties that are close to existing openings and most houses of this size have their own entrances. In addition, the proposed driveway wouldn't be as steep as the existing access so would be more beneficial particularly in bad weather.
- 3.5 The LRB agreed that there could be some merit and benefit to forming a new access that met with the required standards and visibility splay requirements, however the existing access would not be closed off and would remain open. The proposal would therefore lead to the creation of two substandard access situations onto the A90 trunk road.
- 3.6 The LRB noted that Transport Scotland had raised an objection to the application on the basis that there is an existing access that serves the house and the proposed access is too close to the existing access for it to be deemed safe. In response to the Notice of Review, Transport Scotland had also provided a further detailed response (pages 50-53 of agenda papers) which helpfully provided potential solutions for the applicant should he wish to pursue the matter through an alternative proposal. The Planning Adviser also informed the LRB that due to the objection from Transport Scotland, and should they be minded to allow the Notice of Review, then under the terms of the Notification of Planning Applications (Scotland) Direction 2009, the case would firstly have to be referred to Scottish Ministers before any decision could be issued.
- 3.7 The LRB unanimously agreed that the proposed access is too close to the existing access for it to be deemed safe but that there may be an alternative solution that could be explored further by the applicant in direct consultation with Transport Scotland.
- 3.8 In conclusion the LRB decided that the proposal was unacceptable because of the negative implications it would have for road safety and therefore the proposed access was deemed to be contrary to Policy P1 of the ALDP.
- 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 thereby refusing full planning permission for the reason set out below.

4.0 Reasons for refusal

- (1) The proposed access would give direct access onto the A90(T) a short distance from an existing access. Transport Scotland have stated that the proposed access is too close to the existing access for it to be considered acceptable and has objected on road safety grounds. The proposal therefore is not compliant with Policy P1 Layout, siting and design which states that new development should be safe and secure.



Karen Wiles
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.