

APPEAL DECISION (LRB)
Appeal Reference
LRB 431
Planning Reference
APP/2018/1704
Planning Proposal
Planning permission in principle for the erection of a dwellinghouse, double garage and workshop.
Summary of Decision
<p>The Local Review Body dismissed the appeal and agreed to refuse Planning Permission in Principle.</p> <p>It was agreed that the personal circumstances concerning the applicant were not a material consideration and that the cohesive group policy (under Policy R2 of the ALDP) would not be applicable in this case as the site is within the Aberdeen Housing Market Area and when considering small-scale additions to existing clusters, these relate to the Rural Housing Market Area only.</p> <p>Further still, it is not recognised that a piece of 'hardstanding' constitutes the <i>'refurbishment or replacement of a disused building or the remediation of redundant brownfield land'</i>.</p> <p>In addition, the proposal does not comply with Policy RD1 Providing suitable services in that no drainage calculations have been provided with the application to demonstrate that the development meets the required standards. Policy RD1, stipulates that <i>'appropriate supporting evidence should be provided to support using a private drainage infrastructure'</i>.</p>
Policy Issues
Proposal is considered to be contrary to Policies R2 and RD1 (as above)
Additional Points
None
Actions
Note Decision

Aberdeenshire Council Local Review Body

Reference LRB 431 APP/2018/1704

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Killiebrae, Oldmeldrum
- Application for review by Mr & Mrs J Presly c/o George W Simpson Chartered Architect against the decision by an appointed officer
- Application reference APP/2018/1704 for Planning Permission in Principle (PPP) for the erection of a dwellinghouse, double garage and workshop (for applicant's business) refused by decision notice dated 8 October 2018.
- Application drawings: Location Plan @ 1/10000 scale; Site Plan @ 1/100 scale (drawing no: TD18/03/01); Block Layout /Indicative Roof Plan @ 1/100 scale (drawing no: TD18/03/02) and Indicative Floor Plan @ 1/100 scale (drawing no: TD18/03/03).
- 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 Planning Permission in Principle in accordance with the Appointed Officer's decision as set out in paragraph 4 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, 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.

2.0 Proposal

- 2.1 PPP is sought for the erection of a dwellinghouse, double garage and workshop for the applicants business at Killiebrae, Oldmeldrum
- 2.2 Killiebrae is a detached one and a half storey dwellinghouse and is located within what is recognised as an existing cluster of houses located approximately 1 mile to the north east of Oldmeldrum. The application site is located within an area of garden ground to the rear of the applicant's house and neighbouring house, which are both positioned to the south of the site.
- 2.3 There is an unclassified road to the east where access to the site would be taken. It is proposed to connect to the public water supply, whilst drainage would be via a domestic sewage treatment plant with partial soakaway discharging to a culverted stream. Surface water drainage details had not been provided.
- 2.4 A Design Statement was submitted in support of the application and advises that the applicant wishes to build on this site due to current mobility concerns of the applicant and the requirement to have a house that is all on one level.
- 2.5 The site lies within the defined Aberdeen Housing Market Area (AHMA).

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 countryside.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ADLP) policies (page 58 of the agenda papers) and these were as follows:

Policy R2 – Housing and employment development in the countryside;

Policy P1 - Layout, Siting and Design;

Policy C1 – Using resources in buildings;

Policy E2 – Landscape;

Policy RD1 – Providing suitable services; and

Policy RD2 – Developer's obligations.

- 3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful, but they agreed that they had sufficient information before them to proceed to determine the Notice of Review.
- 3.4 Consideration was given by the LRB to the case set out by the applicant concerning their personal circumstances and whilst expressing some sympathy, they agreed that this was not a material planning consideration as their remit was to determine whether the correct policies had been identified and correctly interpreted during the determination of the planning application. The LRB also noted at the time of writing of the Report of Handling (RoH) there were 36 bungalows for sale of varying asking prices within the AB51 area.
- 3.5 During his presentation to the LRB and in response to questions the Planning Adviser confirmed that the site lies within the AHMA and therefore the application of the cohesive group policy (under Policy R2 of the ALDP) would not be applicable in this case.
- 3.6 The applicant's case as set out in the Notice of Review is that the proposal was not contrary to Policy R2. They made reference to the RoH which states that a concrete floor slabs and foundation of the former stables is viewed as hardstanding, but that this is not supported by the Oxford English Dictionary which defines hardstanding as a surface for parking of vehicles. There is no definition of hardstanding in the LDP glossary. They also considered that there is no reason why the drainage calculations could not be a condition of any approval. This would guarantee the application complies with Policy RD1.
- 3.7 All members of the LRB agreed that there are limited circumstances where support can be given to housing in the countryside within the AHMA. In this case it was evident that the proposal did not meet with any of the relevant criteria set out in Policy R2 of the ALDP which can allow for the refurbishment, replacement or extension of existing buildings or the remediation of brownfield land. The concrete slab formed the base for a previous stable block on the site and this currently supports a dog kennel and a storage shed. It is also of limited size and would bear little relationship to the size and location of any house on the site. In this case the LRB were unanimous that the proposal would not be considered to constitute the refurbishment or replacement of a disused building or the remediation of redundant brownfield land and therefore would fail to comply with Policy R2 of the ALDP.
- 3.8 In addition, Policy RD1, providing suitable services, requires developments to be supported by relevant drainage reports or certificates to affirm that the proposed private septic tank and soakaway systems are feasible on any site. The current application had not been supported by any relevant justification and whilst such matters could be further controlled by suspensive condition, the LRB

agreed that as there was no information before them on this matter, the proposal also currently failed to comply with Policy RD1 of the ALDP.

- 3.9 In the circumstances, and in the absence of any other 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 principle of development on this site is not acceptable and would be contrary to Policies R2 Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017 in that the site is within the Aberdeen Housing Market Area and when considering small-scale additions to existing clusters, these only relate to the Rural Housing Market Area only. Further still, it is not recognised that a piece of 'hardstanding' constitutes the 'refurbishment or replacement of a disused building or the remediation of redundant brownfield land.
- (2) The proposed development fails to comply with Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017 in that no drainage calculations have been provided with the application to demonstrate that the development meets the required standards. A requirement of Policy RD1 Providing suitable services, stipulates that 'appropriate supporting evidence should be provided to support using a private drainage infrastructure'.

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.