

<b>APPEAL DECISION (LRB)</b>
Appeal Reference: LRB432
Planning Reference: APP/2018/1443
Planning Proposal: Planning Permission in Principle (PPP) for the erection of a dwellinghouse at Aquhorthies 50M West of Cosy Neuk, Burnhervie.
Summary of 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.
Policy Issues: A new dwellinghouse was proposed on the site of a former gate lodge which, while showing on historical maps, was demolished approximately 100 years ago. Policy R2: Housing and employment development elsewhere in the countryside supports the refurbishment, replacement or extension of existing buildings or the remediation of brownfield land. On this key planning issue, the LRB was 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.
Additional Points: The applicant failed to provide sufficient information on tree loss, protected species, flood risk, nor drainage proposals. Although potentially capable of being resolved, the lack of information on these points constituted four further reasons for refusal and the LRB upheld all five reasons for refusal.
Actions: Note Decision

**Aberdeenshire Council Local Review Body**

**Reference LRB 432 APP/2018/1443**

**Review Decision Notice**

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Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Site At Aquhorthies 50M West of Cosy Neuk, Burnhervie.
- Application for review by Mr A Baxter c/o John Wink Agent against the decision by an Appointed Officer.
- Application reference APP/2018/1443 for Planning Permission in Principle (PPP) for the erection of a dwellinghouse refused by decision notice dated 3 September 2018.
- Application drawings: Location Plan @ 1/1250 scale (drawing no: 1784-022); Site Plan @ 1/200 scale (drawing no: 1784-120); Site Sections @ 1/200 scale (drawing no: 1784-021) and Location Plan @ NTS (drawing number 1784-SLP).
- No site inspection took place

Date of Decision: 4 March, 2019

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**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 4.0 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 25 January, 2019. The LRB was attended by Councillors F C P Hood (Chair), R Cassie, J Hutchison, P 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.

## **2.0 Proposal**

- 2.1 Planning in Principle was sought for the erection of a dwellinghouse on a site at Aquahorthies, Burnherve, Inverurie. The site is 50 metres west of the property known as Cosy Neuk.
- 2.2 The site is triangular shaped and measures approximately 0.2ha. The site is bounded by a public road to the south, the vehicular access to House of Aquhorthies to the northeast and a mature tree belt to the west. The site itself is overgrown with a mix of strategically planted and self-seeded trees. The site slopes from north to south and west to east.
- 2.3 The proposal involves the erection of the house centrally within the site on an existing platform. The site will be served by a public water supply and private foul and surface water disposal. The access will be taken off the private access track to House of Aquhorthies.
- 2.4 A statement was submitted in support of the application advising that the proposed house would replace the gate lodge which, while showing on the historical maps of 1869 and 1901, was demolished approximately 100 years ago.
- 2.5 The site lies within the defined Aberdeen Housing Market Area (AHMA).

## **3.0 Reasoning**

- 3.1 The main determining issue for the 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 Local review Body (LRB) agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ADLP) policies and these were as follows:

Policy R2: Housing and employment development elsewhere in the countryside;

Policy P1: Layout, siting and design;

Policy E1: Natural heritage;

Policy E2: Landscape;

Policy C1: Using resources in buildings;

Policy C4: Flooding;

Policy RD1: Providing suitable services; and

Policy RD2 Developers 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 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 cluster policy (under Policy R2 of the ALDP) would not be applicable in this case.
- 3.5 In response to a question on what physical evidence of previous development there was on the site, the Planning Adviser confirmed that there was no evidence of upstanding walls or anything exposed on the site. The Planning Adviser further advised that the original gate lodge was known to have been demolished circa 100 years ago and that it was considered that the site was now entirely naturalised.
- 3.6 The LRB agreed that there were limited circumstances where support could be given to housing in the countryside within the AHMA. For the case as presented before them, it was evident that the proposal did not meet with any of the relevant criteria set out in Policy R2 of the ALDP which could allow for the refurbishment, replacement or extension of existing buildings or the remediation of brownfield land. The Local Review Body acknowledged that the proposal did not qualify as a cluster/group under Policy R2 of the ALDP as the site was located within the RHMA. The LRB were unanimous in their view 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.
- 3.7 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 that matter, and as such the proposal would fail to comply with Policy RD1 of the ALDP.
- 3.8 Furthermore, Policy E1, Natural heritage, requires surveys or protection plans to be submitted to mitigate any detrimental impact on protected species from development. As the current application had not been supported by any suitable surveys, the LRB agreed that the proposal also failed to comply with Policy E1, Natural Heritage of the ALDP.
- 3.9 In addition, Policy C4, Flooding of the ALDP, requires Flood Risk Assessments (FRA) to be submitted for sites at medium to high risk from flooding or when a possible risk has been identified. As a FRA has

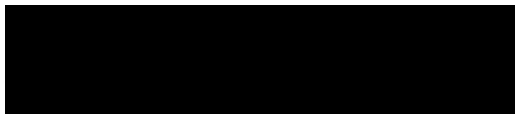
not been submitted in support of the application, the LRB agreed that the proposal would also fail to comply with Policy C4 Flooding of the ALDP.

- 3.10 Finally, Policy PR1, Protecting important resources, requires an evaluation of the biodiversity and amenity value of woodland in cases where development would result in the loss or damage of trees. As a suitable survey has not been submitted in support of the application, the LRB agreed that the proposal would also fail to comply with Policy PR1 Protecting important resources of the ALDP.
- 3.11 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 proposed development is contrary to Policy R2: Housing and Employment Development Elsewhere in the Countryside of the Aberdeenshire Local Development Plan 2017, as the proposed dwelling house fails to meet the criteria set out in the policy, in that:
- a) not permissible in the green belt;
  - b) It does not contribute to the growth of a settlement identified in Appendix 4;
  - c) It is not associated with the retirement succession of a viable farm holding;
  - d) It is not for the refurbishment or replacement of an existing or disused building, or remediation of redundant brownfield land opportunities;
  - e) It is not a small scale employment proposal;
  - f) It is not an appropriate addition to a cluster or group of at least 5 houses.
- (2) The applicant has failed to provide sufficient information to demonstrate that the development would have no impact on the existing trees located within the site and which have been identified as being part of long establish woodland of plantation origin on the SNH Ancient Woodland Inventory. It is therefore not possible to make a full assessment of the implications of the development with regard to the impact upon the site and surrounding area with regard Policy PR1 Protecting important resources of the Aberdeenshire Local Development Plan 2017.
- (3) The applicant has failed to provide sufficient information to demonstrate that the development would have no impact on any protected species currently located within the site. It is therefore not possible to make a full assessment of the implications of the development with regard to the impact upon the site and surrounding area with regard to Policy E1 Natural heritage of the Aberdeenshire Local Development Plan 2017.

- (4) The application is deficient in information in respect of drainage information as requested under Regulation 24 of the Town and Country Planning (Development Management Procedures) (Scotland) Regulations. It is therefore not possible to make a full assessment of the implications of the development with regard to the impact upon the site and surrounding area with regard to Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017.
- (5) The applicant has failed to provide sufficient information to demonstrate that the development would have no impact on the functional floodplain, which lies adjacent to the site. It is therefore not possible to make a full assessment of the implications of the development with regard to the impact upon the site and surrounding area with regard to Policy C4 Flooding of the Aberdeenshire Local Development Plan 2017.



**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.