

LOCAL REVIEW BODY

FRIDAY, 22ND MARCH, 2024

Present: Councillors D Lonchay (Chair) , I Davidson, J Goodhall, I Davidson, J Goodhall, R Menard (as substitute for Councillor S Adams) C Simpson and C Victor.

Apologies: Councillor S Adams.

Officers: Planning Adviser to the Local Review Body (Senior Planner, Bruce Strachan), Legal Adviser to the Local Review Body (Solicitor, Amanda de Candia) and Committee Officer (Alison McLeod).

1 SEDERUNT, DECLARATION OF MEMBERS' INTERESTS.

In respect of declaration of members' interests as required by the Code of Conduct for members, the following declarations of members' interests were intimated.

- (1) Councillor Victor declared an interest in Agenda Item 7 – LRB 600 – by virtue of the application site being within her Ward. She concluded that she would withdraw from the meeting when that review was being determined.
- (2) Councillor Menard declared an interest in Item 6 – LRB 598 as he had not been in attendance when the review had initially been considered and in respect of Item 8 – LRB 603 by virtue of the application site being within his Ward. He concluded that he would withdraw from the meeting when both reviews were being considered.

2 PUBLIC SECTOR EQUALITY DUTY.

In taking decisions on the undernoted items of business, the Local Review Body **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) To have due regard to the need to:-
 - (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it, and
- (2) to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

3 MINUTE OF THE MEETING OF THE LOCAL REVIEW BODY OF 23 FEBRUARY 2024

The Local Review Body had before them and **approved** as a correct record, the Minute of the Local Review Body meeting of 23 February, 2024.

4 SPREADSHEET HIGHLIGHTING RELEVANT POLICIES FOR EACH REVIEW.

The Local Review Body had before them, and **noted**, a list of policies relevant to each of the reviews presented, as contained within the Aberdeenshire Local Development Plan (2023).

The Local Review Body also had before them, and **noted**, a list of policies relevant to each of the reviews presented, as contained in the National Planning Framework 4 (NPF4) as adopted on 13 February 2023.

5 STATEMENT OF OUTSTANDING BUSINESS

A list of outstanding actions was circulated from previous meetings of the Local Review Body, where further procedures had been necessary. The list provided the Local Review Body with the current status of one deferral as of 22 March 2024.

The Committee Officer provided an update on the current status of the outstanding review and asked members to note the current position.

1.	LRB 598	The LRB noted that the review had been deferred to allow the LRB to follow further procedure by way of seeking additional information, namely to seek further information from the applicant as to the reasons for seeking a variation of a condition. A response had been provided by the applicant's agent, and had been forwarded to the Planning Service for comment. The Planning Service had provided their comments and this had been forwarded to the applicant's agent for comment. The review was on the agenda for the 22 March 2024 meeting.
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The Local Review Body **agreed** to note the update provided.

6 LRB 598 - NOTICE OF REVIEW AGAINST CONDITIONS APPLIED TO FULL PLANNING PERMISSION FOR CHANGE OF USE OF LAND TO FORM EXTENSION TO EXISTING CARAVAN SITE AND AMENDED LAYOUT TO INCLUDE ADDITIONAL STANCES AT CARAVAN SITE, EASTER CUSHNIE, BANFF, AB45 3HT - REFERENCE APP/2023/1465

Local Review Body: Councillors D Lonchay (Chair), I Davidson, J Goodhall, C Simpson and C Victor.

With reference to the minute of the Local Review Body meeting of 26 January 2024 (Item 9), where the Local Review Body had agreed to defer consideration of the Notice of Review, to allow them to follow further procedure by way of seeking further information, namely to request further information from the applicant as to the reasons for seeking the variation of the condition.

The Local Review Body had before them the additional information requested, as presented on pages 19 to 22 of the agenda pack, which included the information provided by the Agent addressing the issue and a response from the Planning Service.

The Local Review Body then resumed consideration of the Notice of Review, which sought a review against Condition 4 applied to the planning permission for Full Planning Permission for Change of Use of Land to Form Extension to Existing Caravan Site and Amended Layout to include additional stances at Caravan Site, Easter Cushnie, Banff, AB45 3HT - Reference : APP/2023/1465.

The Planning Adviser introduced the Notice of Review and provided the Local Review Body with an overview of the application as presented at the initial meeting on 26 January 2024, and a recap of the conditions imposed on the Planning Permission granted on 5 October 2023, namely:

1. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. At no time should more than 23 caravans remain on the site hereby approved.

Reason: In the interests of visual amenity of the area.

3. No caravan shall remain on the site hereby approved between 1 February and 1 March in any one year.

Reason: In the interests of visual amenity of the area and to ensure proper control of the use of the site and to prevent establishment of permanent residency.

4. Throughout the life of the proposal hereby approved, the site shall not be used by any caravan for more than 28 consecutive days and there shall be no return during the following 30 days.

Reason: To ensure proper control of the use of the site and to prevent establishment of permanent residency.

5. The site shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the land use and the safety and welfare of the occupants and visitors to the site.

Informative(s)

- (1) 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.
- (2) 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.
- (3) Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter.
- (4) This planning permission has been granted on the basis that the proposed development will be connected to the public water supply. Should the developer wish to connect to a private water supply a fresh planning application would be required for the development to allow the planning authority to consider the implications of using a private water supply to service the development.

The Planning Adviser advised that in response to the Procedure Notice seeking further information in relation to the review, the applicant's agent had confirmed that the site was intended for motor homes and touring caravans only and that many customers would stay on a seasonal pitch for far longer than 28 days, maybe even up to six months over the summer period and many other local sites offered seasonal pitches and these can be allocated much earlier in the season, bringing in revenue to the business. In response to procedure notice and the information from the applicant, the planning service advised that condition four was applied in line with conditions that had been attached to the previous permission from 2017, and the main reason was to restrict the occupancy and the use of the site. However, it is noted that condition 3 provided a safeguard against permanent residents on the site and therefore the planning service in this case would not contest the variation of the condition. The applicant was given an opportunity to comment on the comments, the planning service, but advised that it had nothing else to say as the planning service was not contesting varying the condition.

In conclusion, the Planning Adviser confirmed that the options open to the LRB were to retain, to vary, or to remove the condition, and whether that would result in any detrimental impact or set any undesirable precedent.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2023 were: B3: Tourist Facilities; R1: Special Rural Areas;

R2: Development Proposals Elsewhere in the Countryside; Policy P1: Layout, Siting and Design; E2: Landscape; and RD1: Providing Suitable Services.

The Local Review Body considered that the relevant policies, as contained within National Planning Framework 4 (NPF4) were: Policy 4: Natural Places; Policy 14: Design, Quality and Place; Policy 18: Infrastructure First; Policy 22: Flood Risk and water management; Policy 29: Rural development; and Policy 30: Tourism.

In response to questions raised, the Planning Adviser advised that the site was granted as a touring caravan site and there was no suggestion that mobile homes were intended to be sited, and further that the applicant was bound by licensing requirements and in taking a decision to vary or remove the condition, Members should consider if there would be any wider impact or precedent set.

The Chair then asked the Local Review Body to consider whether there was sufficient information before them for members to consider the review without further procedure. The Local Review Body determined that they did have sufficient information before them and proceeded to determine the review.

During discussion, the Local Review Body considered that the main determining issues for the review were the need and reasonableness of condition 4, the additional information from the applicant and the updated position of the Planning Service. The LRB was clear that its options were to uphold the Notice of Review by varying or removing condition 4, or dismissing it and retaining condition 4 as per the original decision.

Members were generally of the view that due to the popularity of the NE250 route, caravan site owners were seeking to extend the season, and that other sites were offering seasonal pitches to customers. It was also noted that there were still mechanisms in place to ensure that sites were not being occupied permanently.

After consideration, some Members felt the condition should be varied as requested by the applicant, others were of the view that the condition was not necessary and could be removed entirely. An initial motion to vary the condition, restricting caravans to stays of up to 6 months during the 11 month period of operation was not seconded and fell. An amending motion to remove the condition was thereafter put forward, leaving the Local Review Body to make a unanimous decision.

After due consideration, the Local Review Body unanimously **agreed** to uphold the Notice of Review and remove condition 4 of the original planning decision on APP/2023/1465 and GRANT Full Planning Permission for the reason below and subject to the remaining conditions as set out below.

1. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. At no time should more than 23 caravans remain on the site hereby approved.

Reason: In the interests of visual amenity of the area.

3. No caravan shall remain on the site hereby approved between 1 February and 1 March in any one year.

Reason: In the interests of visual amenity of the area and to ensure proper control of the use of the site and to prevent establishment of permanent residency.

4. The site shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the land use and the safety and welfare of the occupants and visitors to the site.

Reason: on the grounds that condition 3 is in place to prevent permanent residency within the site and to bring the site into alignment with other sites in the area. The proposed development would comply with Policy B3 of the Aberdeenshire Local Development Plan 2023 and Policy 30 of National Planning Framework 4.

7 LRB 600 - NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT SITE AT BLAIKEWELL ANIMAL SANCTUARY, BLAIRS, ABERDEEN, AB12 5YX - REFERENCE: APP/2023/0783

Local Review Body: Councillors D Lonchay (Chair), I Davidson, J Goodhall, R Menard and C Simpson.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for the Erection of a Dwellinghouse at Site at Blaikiewell Animal Sanctuary, Blair's, Aberdeen, AB12 5YX – Reference APP/2023/0783.

The Planning Adviser introduced the Notice of Review and provided the Local Review Body with the background to the applicant's case, including a series of slides and photographs of the site and surrounding area. The issue of the proposed access was outlined, with it being confirmed that the Local Review Body should only consider the access to the north (U63k).

The Local Review Body then considered the Appointed Officer's reasons for refusal, namely:

- (1) The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2023 or National Planning Framework 4. The proposed development site does not represent an opportunity for a house in the countryside in line with the defined acceptable criteria for development of new housing as outlined in Policy R2: Development Proposals Elsewhere in the Countryside, as the proposed

dwellinghouse fails to meet any of the stipulated criteria, specifically that the proposed dwelling is not essential to support the efficient operation of a primary industry. Furthermore the proposed dwelling is also considered to be contrary to Policy 17 of NPF4: Rural housing, as the proposal fails to demonstrate that there is an essential need for a worker to live permanently at or near their place of work in support of a viable rural business.

- (2) The proposed dwellinghouse is considered to be unsuitably sited, due to the isolated siting becoming a prominent feature which would have an unacceptable impact on the landscape character of the area by being poorly-connected to the nearby building cluster around Blaikiewell farm. The proposal is thereby not considered to be in accordance with the requirements of Policies 4: Natural Places and 17: Rural homes of NPF4, and Policy E2: Landscape of the Aberdeenshire Local Development Plan 2023.
- (3) The proposal fails to adequately demonstrate that the site can be satisfactorily serviced in terms of surface and foul water drainage as no detailed foul or surface water drainage information has been submitted in support of the application. As such, it has not been possible to fully assess whether the proposed development can be delivered without having a negative environmental impact upon the surrounding area which would be contrary to stated waste water requirements of Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2023 and Policy 22: Flood Risk and Water Management of NPF4.

The Planning Adviser confirmed that at the time the Planning Service wrote the report of handling the foul drainage details had not been submitted. Since that time the information had been provided and the matter had been resolved to the satisfaction of the Planning Service, so the reason for refusal related to lack of drainage details was no longer relevant.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2023 were: Policy C1: Using Resources in Buildings; E2: Landscape; P4: Hazardous and Potentially Polluting Development and Contaminated Land; R2: Development Proposals Elsewhere in the Countryside; RD1: Providing Suitable Services; and RD2: Developer Obligations.

The Local Review Body considered that the relevant policies, as contained within National Planning Framework 4 (NPF4) were: Policy 3: Biodiversity; Policy 4: Natural Places; Policy 17: Rural Homes; Policy 22: Flood risk and water management; Policy 23: Health and Safety.

In response to questions raised, the Planning Adviser explained that the previous owner who had operated the sanctuary and a riding school with livery service for around 50 years had lived close to the sanctuary and the new owner was seeking a house on the site in order to maintain the sanctuary and to grow and reinstate the livery business and riding school. A business case had been made for a viable rural business by the applicant, although the Planning Service did not accept the need for a house on site to support it. It was confirmed that there was no other house within the landholding and that the proposed new dwelling would be occupied by the applicant/owner, rather than a worker. The definition of a 'primary industry' was also discussed.

The Chair then asked the Local Review Body to consider whether there was sufficient information before them for members to consider the review without further procedure.

The Local Review Body considered that the main determining issues for the review, as presented before them related to whether there was sufficient justification for a dwelling house to support the activities outlined at the animal sanctuary, whether the proposed siting and the distance from the sanctuary buildings appropriate and are there any other material considerations or any reason to depart from the development plan.

During discussion, Members discussed whether or not the business should be considered a primary industry, and if so whether it was reasonable to consider allowing a house. Members were of a general view that there was sufficient justification for residential accommodation to be provided based on the need to be on site to care for and have oversight of the animals, however the proposed siting away from the 'hub' was not considered to be appropriate and could not be supported.

Thereafter, The Local Review Body **agreed** unanimously to DISMISS the Notice of Review and to uphold the Appointed Officer's decision to REFUSE Full Planning Permission, on the basis of reason 2 in the decision notice dated 17 October 2023, namely:

The proposed dwellinghouse is considered to be unsuitably sited, due to the isolated siting becoming a prominent feature which would have an unacceptable impact on the landscape character of the area by being poorly connected to the nearby building cluster around Blaikiewell farm. The proposal is therefore not considered to be in accordance with the requirements of Policies 4: Natural Places and 17: Rural homes of NPF4, and Policy E2: Landscape of the Aberdeenshire Local Development Plan 2023.

8 LRB 603 - NOTICE OF REVIEW AGAINST REFUSAL OF FULL PLANNING PERMISSION FOR ALTERATIONS AND EXTENSION TO DWELLINGHOUSE AND ERECTION OF BOUNDARY FENCE AT 6 PITTULIE, SANDHAVEN, FRASERBURGH, AB43 7EU - REFERENCE: APP/2022/2577.

Local Review Body: Councillors D Lonchay (Chair), I Davidson, J Goodhall, C Simpson and C Victor.

The Local Review Body had before them, a Notice of Review and supporting documents, submitted by the agent, which sought a review of the Appointed Officer's decision to Refuse Full Planning Permission for Alterations and Extension to Dwellinghouse and Erection of Boundary Fence at 6 Pittulie, Sandhaven, Fraserburgh, AB43 7EU – Reference: APP/2022/2577.

The Planning Adviser introduced the Notice of Review and advised the Local Review Body that in terms of review procedure, the applicant had suggested the Local Review Body would benefit from a hearing session and a site visit in order to determine the review. The Planning Adviser then provided the Local Review Body with the background to the applicant's case and a series of slides and photographs of the site and surrounding area, relevant development plan policies, the review and key planning issues with reference to submitted plans and other images. Additional information was available to Members in the agenda pack.

The Local Review Body then considered the Appointed Officer's reason for refusal, namely:

- (1) The application does not comply with the Aberdeenshire Local Development Plan 2023 and National Planning Framework 4. The proposed extension by reason of its design, flat roof and proposed materials does not respect the original design of the Category 'C' listed cottage, would undermine the historic significance, character and appearance of the listed cottage. It therefore does not comply with LDP2023 Policy HE1 Protecting Listed Buildings, Scheduled Monuments and Archaeological Sites (including other historic buildings) and Policy P1 Layout, Siting and Design, Policy P3 Infill and Householder Developments Within Settlements and Householder Developments (Including Home and Work Proposals) and NPF4 Policy 7 Historic assets and places, Policy 14 Design, quality and place and Policy 16 Quality homes.

The Local Review Body considered that the relevant policies, as contained within the Local Development Plan 2023 were: C4: Flooding; P1: Layout, Siting and Design; P3: Infill Developments with Settlements and Householder Development; and HE1: Protecting Historic Buildings, Sites and Monuments.

The Local Review Body considered that the relevant policies, as contained within National Planning Framework 4 (NPF4) were: Policy 7: Historic Assets and Places; Policy 14: Design, Quality and Place; Policy 16: Quality Homes; and Policy 22: Flooding Risk and Water Management.

In response to questions raised, the Planning Adviser confirmed his understanding of why a more traditional pitched roof had not been proposed, that the site was not within a Conservation Area and that he had not observed the same type of cladding used within Pittulie during his visit. In the Adviser's opinion, even if there were examples of unsympathetic extensions and development locally, these would not justify a repetition in new applications. It was confirmed that the tandem Listed Building Consent, that had also been refused had not been appealed within the necessary period, meaning this development could not lawfully be built without such a consent.

The Chair then asked the Local Review Body to consider whether there was sufficient information before them for members to consider the review without further procedure.

The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful. One Member was of the view that a site visit should take place. Following a vote (4:1) the LRB agreed they had sufficient information before them to proceed to determine the Notice of Review.

The Local Review Body considered that the main determining issues for the review, as presented before them was the suitability of the proposed design and materials of the mansard extension and detrimental impact on the building and wider area perceived by the Planning Service, which the applicant disputed.

The LRB gave consideration to the case set out by the applicant. One Member felt that the review should be dismissed as, although the need to extend and improve homes was understood, this scheme was inappropriate for the Listed Building. An alternative

viewpoint was put that the proposed extension would not be detrimental to the existing building and that the review should be upheld with a condition requiring an alternative material to the cedar cladding applied.

Thereafter, Councillor Davidson moved, seconded by the Chair to DISMISS the Notice of Review and uphold the Appointed Officer's decision to REFUSE Full Planning Permission for the reasons contained within the decision notice dated 30 June 2023, on the basis that the proposed development would be contrary to the Development Plan, specifically, Policies HE1, P1 and P3 of ALDP 2023 and Policies 7, 14 and 16 of NPF4 due to the proposed extension by reason of its design, flat roof and proposed materials does not respect the original design of the Category 'C' listed cottage and would undermine the historic significance, character and appearance of the listed cottage.

As an amendment, Councillor Victor, seconded by Councillor Goodhall, moved that the Local Review Body should uphold the Notice of Review and reverse the Appointed Officer's decision on the grounds that the proposal would comply with Policies P1 of ALDP and P16 of NPF4 and subject to a planning condition to require alternative appropriate external cladding materials to the satisfaction of the Planning Service.

The Members of the Local Review Body then voted:

For the motion	3	Councillors Lonchay, Davidson and Simpson
For the amendment	2	Councillors Goodhall and Victor

The motion was duly carried and the Local Review Body agreed to DISMISS the Notice of Review and uphold the Appointed Officer's decision to REFUSE Full Planning Permission for the reasons contained within the decision notice dated 30 June 2023, on the basis that the application does not comply with the Aberdeenshire Local Development Plan 2023 and National Planning Framework 4. The proposed extension by reason of its design, flat roof and proposed materials does not respect the original design of the Category 'C' listed cottage, would undermine the historic significance, character and appearance of the listed cottage. It therefore does not comply with LDP2023 Policy HE1 Protecting Listed Buildings, Scheduled Monuments and Archaeological Sites (including other historic buildings) and Policy P1 Layout, Siting and Design, Policy P3 Infill and Householder Developments within Settlements and Householder Developments (including Home and Work Proposals) and NPF4 Policy 7 Historic assets and places, Policy 14 Design, quality and place and Policy 16 Quality homes.