

FPRB Reference: 23/398

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Cadham Service Station, Cadham Road, Glenrothes, Fife
- Application for review by Mr Nihad Azizi against the decision by an appointed officer of Fife Council
- Application 23/02396/FULL for Full Planning Permission for erection of tyre fitting facility (Class 5)
- Application Drawings:
05 - Brochure, 06 - Brochure, 01 - Location Plan/Block Plan, 02 - Floor Plan - existing and proposed, 03 - Elevations existing and proposed, 04 - Elevations existing and proposed.
- No Site Inspection took place.

Date of Decision Notice: 8 July 2024

Decision

The Fife Planning Review Body (FPRB) upholds the determination reviewed by them and refuses Planning Permission for the reason(s) outlined below in section 4.0.

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 above application for Planning Permission was considered by the FPRB at its meeting on 17th June 2024. The Review Body was attended by Councillors David Barratt (Convener), Fiona Corps, Jane Ann Liston, Altany Craik and Alycia Hayes.

2.0 Proposal

- 2.1 The site extends to approximately 824 square metres comprising a car wash and valeting premises. It is located on Cadham Road, on the east side of Glenrothes, situated at the east end of Cadham Road, on south west corner of the junction between Cadham Road and the A92. There are residential properties to the north of the site on the opposite side of Cadham Road and to the immediate west. There is a footpath running along the west and south site boundaries. To the south there is a residential development which is currently under construction.
- 2.2 This application is for full planning permission for erection of a building at the west end of the site, between the existing building and the adjoining footpath to the west, to be used for tyre fitting (Class 5). The proposed building would be steel framed with a shallow pitched roof, incorporating a roller shutter door on the north elevation and a door on the east. It would be finished in grey metal profiled sheeting and would be approximately 9.45 metres long, 6.38 metres wide and 5.2 metres in height.

3.0 Reasoning

- 3.1 Firstly, the FPRB considered the pedestrian and road safety impacts of the proposal against NPF4 Policy 13 (Sustainable Transport); Policies 1 (Development Principles) and 3 (Infrastructure Services) of the Adopted FIFEplan; and Making Fife's Places Supplementary Guidance (2018) Appendix G Transportation Development Guidelines. The FPRB agreed that because the Appellant had not submitted the requested parking information at the application stage, they didn't have the relevant information before them to confirm that pedestrian and road safety would not be compromised by the proposal. They acknowledged that the Cadham Road / A92 junction is an area where there has been traffic conflict and road safety issues. They considered that there would be potential for injudicious manoeuvres to and from the site which was a concern of the Case Officer and Fife Council Transportation Development Management. They concluded that the proposed development would be to the detriment of pedestrian and road safety in the absence of any information which would indicate otherwise. They agreed with the Case Officer's reason for refusal and no changes to the wording of this reason were proposed.
- 3.2 The FPRB then assessed the potential residential amenity impacts of the proposal on the surrounding area, cognisant of NPF4 Policies 14 (Design, Quality and Place), 23 (Health and Safety), 26 (Business and Industry) which seek to protect the amenity of the local area from unacceptable noise impacts; and Policies 1 (Development Principles) and 10 (Amenity) of FIFEplan which include criteria requiring development proposals to demonstrate that there would be no significant detrimental impacts on residential amenity. Focused on the potential noise impacts, the FPRB considered whether the noise resulting from the proposed development would be an issue when set against the background noise from the busy A92. They agreed that they didn't know what the potential noise impact from the proposal on amenity of adjacent residents would be because the requested noise impact assessment was not submitted with the planning application. They agreed with the Case Officer that there could be an impact on residential amenity as a result of noise created by the proposed development and, therefore, it failed to comply with NPF4 Policies 14, 23 and 26 and FIFEplan Policies 1 and 10 in terms of the impact on residential amenity.
- 3.3 The FPRB assessed surface stability and public safety in relation to the potential risk posed by the coal mining legacy, against Policy 14 (Design, Quality and Place) of NPF4 and FIFEplan Policies 1 (Development Principles) and 10 (Amenity). The FPRB acknowledged that the site lies within a Coal Authority Development High Risk Area and, therefore, there is a requirement for the Appellant to submit a Coal Mining Risk Assessment, which they failed to submit with the planning application. They noted that The Coal Authority, in their capacity as a statutory consultee, objected to the planning application due to the presence of shallow mine workings which may pose a potential risk to surface stability and public safety. The FPRB considered the Appellant's argument regarding the former petrol filling station use not being possible should there be any mining workings below the site. As with the other matters considered above, the FPRB concluded that they didn't have sufficient information with regard to potential risks resulting from the coal mining legacy to conclude that the proposal would comply with the relevant Development plan policies. They agreed that it would not be appropriate to use a planning condition requiring the submission of Coal Mining Risk Assessment as requested by the Appellant. The FPRB concluded that the proposal is contrary to NPF 4 Policy 14 and FIFEplan Policies 1 and 10.

- 3.4 The FPRB also agreed with the Case Officer's position in relation to the other planning considerations not forming part of the original reasons for refusal. They contended that these matters did not have any material impact that would change their position on this application and concluded that they should not be included as additional reasons for refusal in this instance.
- 3.5 Overall, the FPRB concluded that the proposal could be to the detriment of pedestrian and road safety and, therefore, is contrary to NPF4 Policy 13 and Policies 1 and 3 of the Adopted FIFEplan. They agreed that the proposal could result in unacceptable residential amenity impacts with regard to noise, therefore, failing to comply with NPF4 Policies 14, 23 and 26; and FIFEplan Policies 1 and 10. The FPRB concluded that the proposal is contrary to NPF 4 Policy 14 and FIFEplan Policies 1 and 10 with regard to surface stability and public safety. The FPRB did not consider there to be any other matters for consideration or any material considerations which would outweigh the Development Plan position. The FPRB therefore decided that planning permission should be refused, upholding the Case Officer's decision.

4.0 Decision

- 4.1 The FPRB upholds the determination reviewed by them and refuses Planning Permission for the following reason(s):
1. In the interests of pedestrian and road safety; the applicant having failed to submit requested details demonstrating satisfactory on-site parking provision; in any event, it expected that there would be a lack of parking and associated manoeuvring space within the site, leading to reliance on the public road for parking and injudicious manoeuvring of vehicles to and from that road, to the detriment of pedestrian and road safety near a busy junction with a trunk road; the development therefore standing to be considered contrary to adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles and 3: Infrastructure and Services and the adopted Making Fife's Places Supplementary Guidance (2018).
 2. In the interests of residential amenity; it being likely that the development would give rise to significant adverse impact on residential amenity from noise, the applicant having failed to submit the requested noise impact assessment report to demonstrate otherwise; the development therefore standing to be considered contrary to adopted National Planning Framework 4 (2023) Policies 14 Design, Quality and Place, 23 Health and Safety and 26 Business and Industry, Policies 1: Development Principles and 10: Amenity of the adopted FIFEplan Fife Local Development Plan (2017), and Fife Council's Policy for Development and Noise 2021.
 3. In the interests of surface stability and public safety; the applicant having failed to submit the requested coal mining risk assessment or equivalent report in respect of the development, being development in a Development High Risk Area in terms of the riskbased approach to development management agreed with the Coal Authority; the development therefore standing to be considered contrary to Policy 14 Design, Quality and Place of the adopted National Planning Framework 4 (2023) and Policies 1: Development Principles and 10: Amenity of the adopted FIFEplan Fife Local Development Plan (2017).

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Proper Officer

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions

NOTICE TO ACCOMPANY REFUSAL ETC. 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).

1. If the applicant is aggrieved by the decision of the planning authority -
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement 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.