

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Site At Brunton Road, Markinch, Fife
- Application for review by Mr A Cruickshanks against the decision by an appointed officer of Fife Council
- Application 24/01486/PPP for Planning permission in principle for erection of dwellinghouse (Class 9) and associated development
- Application Drawings:
01A - Location, Block and Other, 02 - Low Carbon Sustainability Checklist
- No Site Inspection took place.

Date of Decision Notice: 19th September, 2025.

Decision

The FPRB overturns the determination reviewed by them and approves Planning Permission in Principle for the reasons 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 1 September 2025. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Ken Caldwell and Lesley Backhouse.

2.0 Proposal

- 2.1 This appeal site relates to a c.266 square metres brownfield parcel of land covering multiple areas of private garden ground adjoining the north side of Brunton Road, Markinch. These areas are shown in copy title submitted by the applicant split between the adjoining house to the west and the two flats beyond, the applicant having explained that all three of these properties, including the areas of private garden ground comprising the site, are within the ownership of the same family. The surrounding area is predominantly residential in character, the house to the west being single-storey and the flats beyond two-storey, with a one-and-a-half storey house to the east, other private garden ground to the north (rear), and a site with planning permission for housing over Brunton Road to the south. One of three areas of private garden ground within the site has been fenced off and chipped, the other two areas are open to each other with a somewhat unkempt appearance. The site is not within an area notified to the planning authority for Mining Remediation Authority consultation purposes.

- 2.2 The appeal proposal relates to planning permission in principle for the erection of a dwellinghouse (Class 9) and associated development. An indicative block plan has been submitted wherein it is stated that the house could be a one and a half-storey three-bedroom house with vehicular access directly off Brunton Road to two parking spaces is shown. However, any future design would require to be assessed via a detailed design application should the appeal proposal be approved.

3.0 **Reasoning**

- 3.1 Firstly the FPRB assessed the amenity impacts of the proposal against NPF4 Policies 14 (Design, Quality and Place) and 16 (Quality Homes); Policies 1 (Development Principles) and 10 (Amenity) of the Adopted FIFEplan, Making Fife's Places and the Council's Customer Guidelines on Garden Ground. The FPRB:-
- Assessed the consequential impacts on the remaining garden ground for existing residential properties; considering whether the proposed reduction and/or relocation of these areas meet the future needs of existing residents.
 - They noted that the remaining areas of garden ground would be reduced for No 1 Brunton Road, relocated and reduced for No. 2 Brunton Road and reduced for No 3 Brunton Road. They also considered the appellant's assertion that all three gardens ground areas were under the control of the same family, notwithstanding that separate legal consents and registrations etc would be required to formalise any amended arrangements on Title.
 - The FPRB considered the varied nature of garden ground areas within the wider area, including historic flatted properties with no or small gardens and the large public park within a 5-minute walk of the site. They then turned to the policy framework, mindful that there was no statutory minimum garden ground requirements within the Council's Garden Ground Customer Guidelines for existing residential properties, albeit, accepted aspirations for 50m² private gardens for new flatted properties. They therefore accepted to apply a flexible approach to decision making for garden ground requirements.
 - They found that the new shared garden ground for No 1 and 2, whilst considerably smaller than the original areas, would meet the recreational and service needs of existing residents. They also concluded that the amended garden ground for No 3 would be acceptable and would afford users a reasonable level of amenity.
 - They FPRB sought clarification on how occupiers of No 1 and 2 would access any new garden ground areas and requested a condition to show any shared areas to allow suitable access to this garden ground area. They agreed that this should not reduce the indicative garden ground for No 3 and therefore requested that the any shared access was provided within the red line boundary of the site and the future detailed design of the dwelling designed to respond accordingly.
 - Accordingly, the FPRB therefore concluded that there would be sufficient retained private garden ground for all three remaining properties (in addition to sufficient garden ground for the proposed property) subject to any future detailed design of the proposed dwelling being considered. They therefore agreed that proposed development would result in an acceptable level of residential amenity for existing and future residents according with NPF4 Policy 14 (Design, Quality and Place), FIFEplan Policy 1: Development Principles and Policy 10 (amenity).
- 3.2 The FPRB also agreed with the Appointed Officer's position in relation to the other planning considerations that did not form part of the original refusal reasons. They contended that these matters did not have any material impact in changing their position on this application and concluded that relevant conditions should be included on any issued planning permission in line with the Appointed Officer's recommendations.

- 3.3 Overall, the FPRB concluded that the proposed development was acceptable as it complied with NPF4 Policy 14 (Design, Quality and Place), FIFEplan Policy 1 (Development Principles) and Policy 10 (Amenity), Making Fife's Places Supplementary Guidance (2018) and the Council's Garden Ground Customer Guidelines. The FPRB found that there would be sufficient garden ground for existing and future residents that could accommodate their functional and recreational needs. The FPRB agreed that the other planning considerations not forming part of the refusal were acceptable and complied with the corresponding Development Plan policies. 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 granted, overturning the Appointed Officer's decision.

4.0 Decision

- 4.1 The FPRB reverses (approves) the determination reviewed by them and grants Planning Permission in Principle subject to the following conditions and reason(s):

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS & REASON(S):

1. The development to which this permission relates must be commenced no later than five years from the date of this permission.

Reason: In order to comply with the provisions of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of The Planning (Scotland) Act 2019.

2. Approval of Matters Required by Condition application(s) submitted for the development hereby approved shall include the following, subject to agreement from the Planning authority (acting reasonably):-
 - a) a location plan of all the site to be developed to a scale of not less than 1:2500, showing generally the site, any existing trees, hedges, walls (or other boundary markers) layout of the roads and sewers;
 - b) a detailed existing site plan to a scale of not less than 1:500 showing the existing site contours, the position and width of all proposed roads and footpaths including public access provision and the position of all buildings;
 - c) a detailed Site Plan to a scale of not less than 1:500 showing the site contours, the siting of the proposed buildings, finished floor levels, new walls and fences and details of proposed landscape treatment;
 - d) detailed plans, sections and elevations of all buildings proposed to be erected on the site;
 - e) details of any proposed external alterations and finishes to boundary walls and openings, as applicable;
 - f) details of the proposed method of drainage, including Fife Council Compliance Certificates, as applicable;
 - g) details of a scheme of replacement planting, where relevant;
 - h) the colour and type of materials for all external materials;
 - i) off-street parking spaces;
 - j) street elevations, photomontages and/or cross sections outlining the proposed buildings in relation to the existing adjacent buildings within the immediate area;
 - k) details of all boundary treatments, landscaping, cycle racks, drying areas and private garden ground (existing and proposed residential units) and amenity space;
 - l) details of waste and recycling provision;

- m) tree Survey showing tree species type, height (at maturity) and root protection areas for any trees to be retained/protected within or adjacent to the site or to identify any trees to be removed within the site, as applicable;
- n) a sustainability statement illustrating the developments' compliance with Fife Council's Low Carbon Fife Supplementary Guidance Document (2019); and
- o) shared access to the updated areas of private garden ground for No1 and 2 Brunton Road, to demonstrate feasible access between respective houses to public/shared footpaths and the respective garden ground areas for these dwellings.

No work shall be started on site until the written permission of this Planning authority has been granted for these proposals, or such other details as may be acceptable.

Reason: To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006) and to ensure that sufficient information is submitted to assess any detailed proposal.

3. **BEFORE ANY WORKS COMMENCE ON SITE**, a drainage scheme shall be submitted and agreed in writing with Fife Council as Planning authority. Following approval, this surface water management and drainage scheme shall be fully implemented before any development hereby approved commences and shall be retained and maintained for the lifetime of the development.

Reason: To ensure that adequate measures are put in place to deal with surface water drainage.

4. **PRIOR TO OCCUPATION OF ANY DWELLING**, off-street parking spaces shall be provided in accordance with the current Fife Council Transportation Development Guidelines and thereafter maintained and kept available as such.

Reason: To ensure adequate provision of off-street car parking.

5. **IN THE EVENT THAT CONTAMINATION NOT PREVIOUSLY IDENTIFIED** by the developer prior to the grant of this planning permission is encountered during the development, all development works surrounding the contaminated area (save for site investigation works) shall cease immediately and the planning authority shall be notified in writing within two working days.

Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the planning authority or (b) the planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures. Thereafter, remedial action at the site shall be completed in accordance with the approved Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement, a Verification Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement and a Verification Report in respect of those remedial measures has been submitted by the developer to and approved in writing by the local planning authority.

Reason: To ensure all contamination within the site is dealt with.

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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.