

FPRB Reference. 19/342

## Review Decision Notice

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Decision by Fife Planning Review Body (the FPRB)

- Site Address: Land At Former Kingswood Cottage, Kinghorn Road, Burntisland, Fife
- Application for review by Mr Rankin Bell against the decision by an appointed officer of Fife Council
- Application 19/02698/FULL for Full Planning Permission for Erection of dwellinghouse and formation of access and associated parking
- Application Drawings:  
01 - Location Plan, 02 - Site Plan, 04 - Floor Plan Proposed, 05 - Proposed various - elevation, floor etc, 06 - Planning Statement, 07 - Transportation Statement, 09 - Tree Report, 10 - Tree Removal Plan, 11 - Tree Survey Site Plan, 12 - Low Carbon Sustainability Checklist, 03B - Proposed Site Plan, 08A - Tree Report, 13 - Habitat Survey,
- No Site Inspection took place.

Date of Decision Notice: 14th December, 2020.

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### Decision

The FPRB reverses the determination reviewed by them and approves Planning Permission subject to the conditions 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 30 November 2020. The Review Body was attended by Councillors David Barratt (Convener), Alice McGarry, Ross Paterson, Rosemary Liewald and Mino Manekshaw.

#### 2.0 Proposal

- 2.1 The proposed development site is unused land associated with a former cottage outwith the settlement boundary of Burntisland. The site is situated on a significant slope and is a mixture of the remains of the former cottage, open land, scrubland and trees. To the west of the site is countryside between the site and Burntisland, while to the north is further countryside but in the form of steep rock faces. To the east are residential properties and Kingswood Hotel. To the south is the A921 (Kinghorn Road). There is a historic access from this road to the site. The east coast railway is to the south of the road. The site is within a Local Landscape Area and is recorded as having woodland which is on the SNH woodland inventory as semi-natural.

- 2.2 The submitted application proposes the construction of a single dwellinghouse. This would be set over two storeys although it would also include a roof terrace with enclosed room. A new vehicular access would be formed from the A921 leading to a long driveway to the dwelling. The previous access point would be closed off with a stone boundary wall being constructed in this location. Some cutting of the slope would be needed to accommodate the dwelling as well as the removal of some trees.

### **3.0 Reasoning**

- 3.1 The determining issues in this review were the principle of development within the countryside and visual amenity and impact on the rural character of the area. The FPRB considered the terms of the Development Plan which comprises the SESplan (207) ("Strategic Development Plan") and the Adopted FIFEplan (Fife Local Development Plan 2017) ("Adopted Local Development Plan"). The FPRB also considered the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices), SPP (2014) and PAN 1/2011 Planning and Noise. The Fife Council Planning Customer Guidelines – Garden Ground; Minimum Distances between Window Openings and Daylight and Sunlight were also used as part of the assessment.
- 3.2 The FPRB considered the principle of development within the countryside and the Policy criteria with Policies 7 and 8 of the Adopted FIFEplan. Of the criteria within Policy 7, the FPRB noted that support could be given to dwellings in the countryside if that development was considered to be compliant with Policy 8 of the Adopted FIFEplan. The FPRB considered the proposal against Policy 8 and concluded that the proposal would only be relevant to two of the criteria within that Policy. While the proposal involved the reuse of previously used land and buildings, as the proposal was not creating a new housing cluster, then this criterion was considered not to be complied with. The other criterion related to a proposed dwelling within an established and clearly defined cluster of five houses or more.
- 3.3. The FPRB noted the comments made by the applicant within the Notice of Review and assessed the relationship of the site with an existing cluster to the east of the site. The FPRB concluded that while the proposal did not fit well with any of the examples given within the Adopted FIFEplan as to an appropriate cluster infill, they did consider this site to form part of an existing cluster. The FPRB considered the site to form the western extent of the existing hotel cluster and had a historic association with that cluster which has at least five properties. The FPRB also stated that the position of the house within the site would avoid ribbon development between the existing settlement and this cluster. With this, the FPRB concluded that the proposal would be contiguous of an existing cluster and sit in between the cluster and thereby would comply with policies 1, 7 and 8 of the Adopted FIFEplan (2017).
- 3.4 In terms of the impact criteria within Policy 8, the FPRB considered that the site would have no detrimental impact on the overall landscape and environmental quality of the area (including the Local Landscape Area). The FPRB noted that there would be some change to the rural character of the area with the removal of trees and alteration to the slope but considered this would be mitigated with the tree re-planting proposed. As the site was in previous use as a dwelling, they considered that there is sufficient infrastructure on site to accommodate the development. Overall, they considered the development to comply with the impact criteria of Policy 8.

- 3.5 The FPRB assessed the design of the property and visual amenity and considered the proposal to be of sufficient quality for the location and would have no detrimental impact in this regard. They concluded the proposal would have no significant detrimental impact on the landscape or rural character of the area. They noted the extent of garden to be provided and noted that in technical terms, the minimum garden ground requirements were not being met. They noted however that the site sat in a large plot which could all be considered amenity space for the dwelling. The FPRB considered this to be an acceptable alternative.
- 3.6 The FPRB concluded the proposal complied with policies on transportation, low carbon and contamination subject to conditions. The FPRB assessed the impact on natural heritage and the loss of trees in particular. The FPRB concluded that the proposal would accord with the Adopted FIFEPlan and SPP in this regard subject to the re-planting of trees for those lost. On residential amenity, the FPRB did not consider there to be any significant concerns and this includes the potential impact from road noise and the railway to the south.
- 3.7 The FPRB concluded that the development would have no significant detrimental impact in terms of the matters addressed by the Report of Handling and the proposal would comply with the Development Plan and relevant guidance and policy documents. 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 did not consider there to be any grounds to refuse the application and reversed the decision of the Appointed Officer.

#### **4.0 Reason for Refusal**

4.1 The FPRB therefore reverses the decision of the Appointed Officer and approves Planning Permission in Principle subject to the following conditions and reasons:

- 1) BEFORE DEVELOPMENT STARTS ON SITE, the final details of the materials to be used on the dwellinghouse (including roof) shall be submitted for the written approval of Fife Council as planning authority. Thereafter, the development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of visual amenity.

- 2) BEFORE THE DEVELOPMENT STARTS ON SITE, details of all the boundary treatment for the site (including elevations and materials) shall be submitted for the written approval of Fife Council as planning authority and shall include the following:

- Retaining wall to rear of dwellinghouse;
- Rebuilding of wall on A921 (with timescale);
- Consideration of a barrier between parking area at front of dwelling and slope to A921;
- Any other boundary treatment.

The development shall be implemented in accordance with the details approved through the terms of this condition.

Reason: In the interests of visual amenity.

- 3) BEFORE ANY WORKS START ON SITE, final level details for the site shall be provided including details of cut and fill for the site and retention needed. The development shall be implemented in accordance with the details approved through the terms of this condition.

Reason: In the interest of road safety and visual amenity.

- 4) BEFORE DEVELOPMENT STARTS ON SITE, final drainage details shall be submitted with the application for the written approval of Fife Council as planning authority. The development shall be implemented in accordance with the details approved through the terms of this condition.

Reason: To ensure the site has adequate drainage in the interests of flood risk and natural heritage.

- 5) BEFORE ANY WORKS START ON SITE, details of tree protection measures shall be provided to protect any of the trees that will remain on site and these shall be approved in writing by Fife Council as planning authority prior to works starting. The tree protection measures shall be implemented prior to any works starting on site

Reason: In the interests of natural heritage and protecting the trees to be retained.

- 6) BEFORE DEVELOPMENT STARTS ON SITE, details of the replacement trees to be planted on site shall be submitted for the written approval of Fife Council as planning authority. These details shall include species, height and girth at planting, location and timescale for planting. The replacement trees shall be provided at a ratio of replacement no less than that specified within the Tree Survey approved through this application. The development shall be implemented in accordance with the details and timetable approved through the terms of this condition.

Reason: To ensure the tree loss on site is fully mitigated in the interests of natural heritage and visual amenity.

- 7) No trees within the site shall be removed (other than those agreed through this application), without the written agreement of Fife Council as planning authority.

Reason: In the interests of protecting natural heritage and the status of the area as semi-natural woodland.

- 8) 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 on site (save for site investigation works) shall cease immediately and the planning authority shall be notified in writing within 2 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.

- 9) Prior to the occupation of the dwelling, the construction of the vehicular crossing of the footway shall be carried out in accordance with the current Fife Council Transportation Development Guidelines.

Reason: In the interest of road safety and to ensure the provision of an adequate design layout and construction.

- 10) Prior to the occupation of the dwelling, all access driveways shall be constructed at a gradient not exceeding 1 in 10 (10%) and shall have appropriate vertical curves to ensure adequate ground clearance for vehicles, as per the layout shown on Drawing No PL003 Rev C.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

- 11) Prior to the occupation of the dwelling, visibility splays 2.4m x 110m shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and the public road, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained for the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at road junctions etc.

- 12) Prior to the occupation of the dwelling, there shall be provided within the curtilage of the site 3 parking spaces for vehicles in accordance with current Fife Council Transportation Development Guidelines and as per the layout shown on Drawing No PL003 Rev C. The parking spaces shall be retained for the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

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Proper Officer

## Advisory notes

1. The length of the permission: This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. 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. Failure to do so is a breach of planning control. It 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)).
3. Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended))

# **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.

### **Notice under the Town and Country Planning (Scotland) Act 1997 as amended by Sections 27A and 27B of the Planning etc. (Scotland) Act 2006**

You are required, prior to the development hereby approved commencing on site, to submit written notification to Fife Council as Planning Authority ("this Council") of the intended date of commencement of the development. The development shall not commence until this notification has been acknowledged in writing by this Council. On completion of the development, you are also required to submit written notification to this Council of this as soon as practicably possible. Any submission on this matter should be addressed to Economy, Planning and Employability Services, Kingdom House, Kingdom Avenue, Glenrothes, KY7 5LT.