

FPRB Reference. 18/330

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Land To The South Of Morar, Church Street, Freuchie, Fife
- Application for review by Nairne Properties Ltd against the decision by an appointed officer of Fife Council
- Application 18/03320/FULL for Full Planning Permission for Erection of two dwellinghouses with associated access and parking
- Application Drawings:
 - 04 - Design and/or Access Statement, 05 - Drainage Plan, 01A - Location and Site Plans, 07 - Drainage Plan, 08 - Drainage Details, 09 - Topographic Site Plan, 06 - Sustainable Drainage Certificates, 13 - Additional Information, 10B - Shadow Impact Diagram -sunlight/daylight, 11B - Shadow Impact Diagram -sunlight/daylight, 12B - Shadow Impact Diagram -sunlight/daylight, 02A - Proposed various - elevation, floor etc, 03A - Proposed various - elevation, floor etc,
- No Site Inspection took place.

Date of Decision Notice: 12th November, 2020.

Decision

The FPRB upholds the determination reviewed by them and refuses Planning Permission 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 full planning permission was considered by the FPRB at its meeting on 26 October 2020. The Review Body was attended by Councillors David Barratt (Convener), Alice McGarry, Ross Paterson, Graeme Ritchie and Rosemary Liewald.

2.0 Proposal

- 2.1 The application site comprises the garden ground associated with a residential dwelling (Morar, Church Street) and an area of vacant land to the south of this property. A residential dwelling is situated within the application site but the dwelling would remain unaltered by the proposal although some of the garden ground associated with this property would be lost. The vacant land largely comprises of unkept grassland. The site is situated within a residential area within the settlement boundary of Freuchie. The site fronts onto a private access road which accesses properties to the south of the site and is also a Right of Way. There is a mature hedgerow on the west side of this private access.

- 2.2 The proposed development is for the construction of two detached dwellings. Both would be one and a half storeys in height. One would be positioned fronting onto the private road (plot 1) and would be situated between Morar and Kendie (the next residential dwelling to the south). The other dwelling (Plot 2) would be situated to the east of the existing dwelling (Morar) and essentially within the garden of that property. A shared driveway would be created to access both of the new properties and this would connect from the private road. The existing dwelling (Morar) would remain in situ and would continue to use an existing separate driveway.

3.0 Reasoning

- 3.1 The determining issues in this review were design and visual impact and residential amenity. The FPRB considered the terms of the Development Plan which comprises the TAYplan (2017) ("Strategic Development Plan") and the Adopted FIFEplan (Fife Local Development Plan 2017 ("Adopted Local Development Plan"). The FPRB also considered Making Fife's Places Supplementary Guidance (2018) and the associated Transportation Guidelines Appendix; Fife Council's Planning Customer Guidelines on Garden Grounds, Minimum Distances between Window Openings and Daylight and Sunlight.
- 3.2 The applicant submitted additional information which was not before the planning officer at the time the planning application was determined. The FPRB were required to consider whether to accept this under section 43B of the Town and Country Planning (Scotland) Act 1997. The information submitted by the applicant set out that a Certificate of Lawfulness for Proposed Development (20/00339/CLP) had been granted for a large outbuilding within the garden of the existing dwellinghouse (Morar). The FPRB accepted this additional information as it was factual information of an event that had occurred post determination of the application and could not have been before the planning authority at time of determination.
- 3.3 The FPRB considered the principle of development and concluded that as the development was in the settlement boundary and was for residential development within a residential area, the development was in accordance with Policy 1 of the Adopted FIFEplan (2017) in principle.
- 3.4 The FPRB considered the design and visual impact of the development. They concluded that plot 1 was acceptable in this regard and would integrate satisfactorily with the area to which it was proposed. The FPRB however considered plot 2 to be incongruous with the surrounding area. The FPRB concluded that the addition of the residential unit within this area would create a higher density plot arrangement with the existing and proposed properties on Church Street which would not fit with the established urban pattern. The FPRB noted the comments from the applicant that the development reflected the residential area to the east however the FPRB did not consider this to be the most relevant context. The FPRB concluded that the spacious nature of the existing residential area would be lost and this would have a detrimental impact on the visual amenity of neighbouring properties particularly given the scale of development proposed. The FPRB considered the proposal to be contrary to policies 1, 10 and 14 of the Adopted FIFEplan (2017) in this regard and concluded the development to be unacceptable on visual amenity.

- 3.5 The FPRB noted the additional information submitted by the applicant which showed that a large scale outbuilding could be located in the same position as the dwelling within plot 2 without the need for planning permission. The applicant set out that this building would be more incongruous than the development proposed and said that this was a material consideration. The FPRB agreed that this was a material consideration to the application but did not consider this added significant material weight towards approving the application. The FPRB considered the proposed development to be of a greater scale and height than the development which could be built through permitted development rights. They considered the proposed dwelling would have a much greater detrimental impact on visual amenity than the permitted development.
- 3.6 The FPRB considered the potential impact of the development on residential amenity and concluded that plot 1 would have no significant impact in this regard. The FPRB considered that plot 2 would introduce a degree of overlooking for No.33 Fortharfield which was not currently experienced. They considered that this would not be insignificant. They noted the applicant's comments that overlooking is common in urban environments however the FPRB concluded that the overlooking and loss of privacy for No.33 Fortharfield would be intensified by this development to unacceptable level. The FPRB also concluded that as the overlooking was from a window from a bedroom it could be quite significant as this room could be frequently used. They also considered there to be a privacy risk for both the garden and windows of No.33 Fortharfield to be adversely affected. The FPRB concluded that this was contrary to the Customer Guidelines on Minimum Distances between Window Openings and Policies 1 and 10 of the Adopted FIFEplan (2017). The FPRB considered the impact to be significant and unacceptable.
- 3.7 The FPRB considered other potential impacts from the development and considered the use of the private road for access to the development and the drainage solution. The FPRB raised concerns that it was unclear whether these could be delivered as it was not clear whether the applicant had legal rights over the road but concluded that this matter could be dealt with by condition. The FPRB did not consider there to be any other matters which would warrant refusal of the application. The FPRB considered the supporting information within the Notice of Review but concluded that there were no material considerations raised to persuade the FPRB that the application should be approved. The FPRB therefore agreed with the assessment and reasons for refusal by the Appointed Officer.

4.0 Reason for Refusal

- 4.1 The FPRB thereby uphold the decision reviewed by them and refuse Planning Permission for the reasons below:
- (1) In the interests of visual amenity and preserving the character and appearance of the settlement pattern; Plot 2 introduces an incongruous structure, due to its location and size, within the established urban character, with a resulting overbearing visual impact in relation to adjacent residential properties, contrary to FifePlan policies 1, 10 and 14.
 - (2) In the interests of residential amenity; Plot 2, due to its location, size and orientation, introduces significant overlooking to the private rear garden of No.33 Fortharfield to the detriment of residential amenity and privacy, contrary to FifePlan policies 1 and 10.

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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.