

FPRB Reference 22/379

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Land 350M North East Of Edenbank Farmhouse, Dron, Dairsie, Fife
- Application for review by R. Todd And Co. against the decision by an appointed officer of Fife Council
- Application 22/03199/PPP for Planning Permission in Principle for Planning Permission in Principle for the erection of dwellinghouse including formation of access.
- Application Drawings:
01 - Location and Site Plans, 02 - Proposed various - elevation, floor etc, 03 - Supporting Statement, 04 - Statement, 05 - Low Carbon Sustainability Checklist, 06 - Statement,
- No Site Inspection took place.

Date of Decision Notice: 19th June 2023

Decision

The FPRB reverses the determination reviewed by them and approves Planning Permission subject to the conditions and 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 12 June 2023. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Lynn Mowatt, Fiona Corps and Alycia Hayes.

2.0 Proposal

- 2.1 The application site relates to an elevated site located 350m to the north-east of Edenbank Farmhouse within a countryside location east of Dairsie and would sit to the east of an area of mature woodland. The proposed site would be accessed for the A91.
- 2.2 Planning permission in principle is sought for the erection of a dwellinghouse to provide accommodation for a working partner or manager essential to the future running of this rural business. The applicant currently operates two businesses with the soft fruit crop business providing 95% of the business gross output and require continual supervision.
- 2.3 There is no planning history on the planning site.

3.0 Reasoning

- 3.1 Firstly, the FPRB considered whether the proposal was acceptable in principle, assessing the proposal for housing development outwith the settlement boundary to consider whether it was compliant with strategic objectives for rural and countryside land under NPF4 Policy 16 (Quality Homes), NPF4 Policy 17(Rural Homes) and FIFEplan Policies 1 (Development Principles), 7 (Development in the Countryside) and Policy 8 (Houses in the Countryside).
- 3.2 The FPRB considered that the proposal could meet the relevant tests within NPF4 Policy 16 as, despite not being allocated for housing in FIFEplan, it could comply with exemptions within NPF4 Policy 16, including criterion (f) allowing for support where a proposal complies with NPF4 Policy 17 relating to rural homes. In this regard, the FPRB considered that the proposal would comply with NPF4 Policy 17 criteria (a)(v) which supports a house on no-allocated land where it is related to the sustainable management of a viable rural business. In a similar vein, they also considered that the proposal would comply with FIFEplan Policy 1, allowing for approval subject to compliance with other FIFEplan policies, and Policy 8 requiring houses in the countryside to support an existing rural business. To this extent, the LRB agreed with the Appointed Officer that the rural business assessment provided by the appellant suitably justified the specific need for the proposed house as in addressing: operational needs and labour requirements associated with the existing agricultural business; providing farm security; health and safety; and to accommodate succession planning for the existing viable rural business. The FPRB provided this support contingent upon the provision of a building of a scale and nature compatible with the surrounding area and acceptable transportation arrangements (per the discussion below). The FPRB therefore contended that the proposal accorded with NPF4 Policies 16 and 17 and FIFEplan Policies 1, 7 and 8.
- 3.3 The FPRB assessed the design and visual impact of the proposal on the rural setting of the countryside against NPF4 Policy 4 (Natural Places), NPF4 Policy 14 (Design, Quality and Place) and FIFEplan Policies 1 (Development Principles), 7 (Development in the Countryside), 8 (Houses in the Countryside) and 10 (Amenity) and Policy 13 (Natural Environment and Access). They contended that whilst the application did not include specific design details, conditions could require provision of a proposal with an appropriate scale, massing and form within the site, cognisant on the immediate rural context. Moreover, given the future siting of any house and the existing topography, the FPRB considered that any future building would be suitably screened by existing vegetation or sit well within the surrounding context and be in-keeping with the character of the location. The FPRB ultimately concluded that subject to conditions requiring approval of future design details, the proposal would comply with Policies 4 and 14 of NPF4 and Policies 1, 7, 8, 10 and 13 of FIFEplan relating solely to design and visual impact subject.
- 3.4 The FPRB then assessed the residential amenity impacts of the proposal on the surrounding area, cognisant of NPF Policy 14 (Design, Quality and Place), Policy 16 (Quality Homes), Policy 23 (Health and Safety) which seek to protect the amenity of the local area from unacceptable amenity impacts, including noise, and Policies 1 (Development Principles) and 10 (Amenity) of FIFEplan which includes criteria requiring development proposals to demonstrate that there would be no significant detrimental impact on residential amenity. Giving consideration to the extensive distance between the site and third-party residential properties, the FPRB determined that any future design, including the orientation and positioning of windows and the distance to the nearest residential dwelling, would avoid any unreasonable adverse impacts on the

daylight, sunlight or privacy provisions of neighbouring properties. The FPRB also resolved that given the size of the site, any future house would result in a reasonable level of residential amenity for future occupants and would not give rise to any adverse noise concerns. They also considered that there would be sufficient garden ground to accommodate the future needs of residents. The FPRB therefore concluded that the proposal would be acceptable in terms of residential amenity, complying with NPF4 Policies 14, 16 and 23 and Policies 1 and 10 of the Adopted FIFEplan with respect to this matter.

- 3.5 The FPRB assessed the transportation and road safety impacts of the proposal. The FPRB took into consideration the comments provided by the Council's Transportation Development Management Officers (TDM) who objected to the application on road safety grounds associated with the use of sub-standard visibility splays.
- 3.6 The FPRB considered the proposal against NPF4 Policy 13 (Sustainable Transport) and Policies 1 (Development Principles), 3 (Infrastructure Services) of 10 (amenity) the Adopted FIFEplan. This includes a review of Policy 1 which requires individual and cumulative impacts to be addressed, including mitigating against the loss in infrastructure (including road) capacity caused by the development. Moreover, the FPRB noted that Policy 3 required that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner and that proposals must be served by adequate local transport and safe access routes. They also noted the requirements to ensure suitable traffic movements under Policy 10. The FPRB were then directed to Fife Council's Fife Council's Making Fife's Places Supplementary Guidance (2018) Appendix G Transportation Development Guidelines which identified minimum transportation requirements, including visibility splays.
- 3.7 Firstly, the FPRB considered the appropriateness of utilising the existing vehicular access to the A91 for vehicles entering/exiting the site. The FPRB noted that the existing visibility splay (facing east) did not meet the technical requirements within Appendix G above. i.e. 170m x 3m instead of 210m x 3m. They then assessed whether it was appropriate for traffic movements associated with the proposal to use this existing, non-compliant, access. The FPRB noted that the applicant did not have control over land required to form any future compliant visibility splay. In light of this, whilst the FPRB considered imposition of a condition of legal agreement to secure the minimum splays, they agreed that it would not meet the relevant Government Circular tests. The FPRB noted the above infringement on the technical visibility requirements but considered this against the use of the existing access by numerous existing properties (including up to 26 properties and two farm buildings). On this basis, they accepted that the proportional increase in trips against the traffic already using this access would not be significant. They asserted that any increase would not result in an unacceptable intensification of this existing access nor would it result in additional road safety risks, beyond those already experienced by existing users.

Secondly, the FPRB considered the second reason for refusal which suggested that the site's location was in an unsustainable location and would result in a car-dominant development. The FPRB noted the proximity of nearby bus stops (approximately approximately 15 minutes' walk) and the proximity of Dairsie village. They also noted that selected policy provisions require houses in the countryside to be contingent upon an existing agricultural or rural business. Noting this, they suggested that this would conflict with the above requirement given that, by their very nature, such rural business would not be located within an urban, well-connected location. They therefore dismissed this reason for refusal and considered that it would be an acceptable location for the proposal.

Finally, the FPRB noted the third reason for refusal relating to the Council's Transport Development Management Team's position policy against supporting increased intensification on existing sub-standard access outwith established built up areas. The FPRB set aside these concerns in line with the reasons outlined above, suggesting that the level of intensification would be low and would not result in unreasonable road safety concerns to the extent that this would warrant refusal.

Accordingly, cumulatively, the FPRB concluded that proposal would be acceptable and would accord with Policy 13 of NPF4 and Policies 1, 3 and 10 of FIFEplan and that any deviation from Making Fife's Places Supplementary Guidance with respect to minimum visibility splays would be acceptable and would not lead to unacceptable transportation concerns.

- 3.8 The FPRB considered whether the proposal supported the transition to a low carbon economy assessing the proposal against NPF4 Policies 1 (Climate and Nature Crisis) and 2 (Climate Mitigation and Adaptation), Policies 1 (Development Principles) 11 (Low Carbon Fife) of FIFEPlan and the Low Carbon Fife Supplementary Guidance. For proposals of this nature, the key determining factor in this assessment relates to whether the proposal could include low/zero carbon technologies to create suitable transition towards a reduction in carbon emissions. In this instance, the FPRB considered the Low Carbon Checklist and the applicant's commitment to such low carbon sustainable principles and found this acceptable subject to a condition requiring further detail at the detailed design stage. The FPRB concluded that the proposal would be acceptable in terms of carbon reduction and sustainability, complying with relevant objectives within NPF4 Policies 1 and 2 and Policies 1 and 11 of the Adopted FIFEplan and the above Supplementary Guidance with respect to this matter.
- 3.9 Turning to drainage and flooding, the FPRB the proposal was assessed against NPF4 Policy 22 (Flood Risk and Water Management), Policies 1 (Development Principles), 12 (Flooding and the Water Environment) of FIFEplan (2017) and Fife Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022). To this extent, the FPRB considered the proposed drainage strategy to include private surface water and private foul drainage arrangements for the proposal. These were considered to be acceptable, particularly as the site was not identified as being at risk of flooding. The FPRB therefore concluded that the proposal would be acceptable and, subject to a condition requiring approval of detailed drainage design, would comply with NPF4 policy 22, Policies 1 and 12 of the Adopted FIFEPlan (2017) and Fife Council's guidance on flooding.
- 3.10 The FPRB also considered Policy 2 (houses in multiple occupancy) of the Adopted FIFEPlan which advised that the use of a new build house or flat as a house in multiple occupation would not be permitted unless the development is purpose built for that use. The FPRB considered the proposal against this policy and agreed that as the proposal was not intended for HMO use, they had no concerns about potential future HMO use.
- 3.11 Overall, the FPRB concluded that the principle of development would be acceptable, demonstrating a direct operational need to an existing viable rural business and would not have a significant detrimental impact on the countryside, according with NPF4 Policies 16 and 17 and Policies 1, 7 and 8 of FIFEPlan. They resolved that there would be significant no detrimental impacts relating to road safety and that the proposal would comply with Policies 1, 3 and 10 of FIFEplan and Making Fife's Places Supplementary Guidance. They therefore reversed the Appointed Officer's decision and considered that the proposal complied with the Development Plan. 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 the

planning permission should be granted, subject to conditions, overturning the Appointed Officer's decision. They also requested that the decision referenced the recently adopted National Planning Policy 4 which had been adopted by the Scottish Government after the Appointed Officer had issued their original decision.

4.0 Decision

4.1 The FPRB reverses the determination reviewed by them and approves Planning Permission subject to the conditions and reasons as follows:

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

1. Application for any of the matters referred to in Condition 3 below shall be made before:-
 - (i) the expiration of 3 years from the date of the grant of this planning permission in principle;
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal or review against such refusal was dismissed, whichever is the latest.

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. The development to which this permission relates must be begun no later than two years from the date of final approval of the further application(s) required under Condition 3 below. For the avoidance of doubt this planning permission in principle shall lapse on the expiration of 2 years from the date of the requisite approval being obtained unless development has begun.

Reason: To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997.

3. 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 surface water drainage and foul drainage;

- g) design details for the internal site access, where it meets the existing access track, and the internal access road including road surfacing specification and verge design,
- h) the colour and type of materials for all external materials;
- i) a detailed plan to a scale of not less than 1:500 demonstrating off-street parking spaces in accordance with the current Fife Council Transportation Development Guidelines.
- j) details of all boundary treatments, landscaping, including road verge planting, cycle racks, drying areas and amenity space.
- k) details of waste and recycling provision of the proposed collection strategy
- l) D details of any tree protection areas, showing any tree falling distances, canopy spread, root protection areas, construction exclusion zones and details of any trees to be retained or removed;
- m) a sustainability statement illustrating the developments' compliance with Fife Council's Low Carbon Fife Supplementary Guidance Document (2019); and
- n) details of ground investigation and any potential contamination and any relevant remediation requirements, as applicable.

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.

4. BEFORE ANY WORKS COMMENCE ON SITE, a surface water management and drainage scheme (including all relevant calculations) 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.

5. The scheme of landscaping required under Condition 2 shall provide details of the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted for approval in writing by this Planning Authority. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner.

Reason: In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.

6. PRIOR TO OCCUPATION OF THE 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.

7. PRIOR TO THE OCCUPATION OF THE DWELLING, there shall be provided within the curtilage of the site suitable turning areas for vehicles suitable for use by the largest size of vehicle expected to visit or be used by occupants of the premises to allow a vehicle to enter and exit the driveway in a forward gear. The turning area shall be formed outwith the parking areas and shall be retained throughout the lifetime of the development.

Reason: In the interest of road safety; to ensure that all vehicles taking access to and egress from the site can do so in a forward gear.

8. IN THE EVENT THAT CONTAMINATION IS ENCOUNTERED that was not identified by the developer prior to the grant of this planning permission, all development works on site (save for site investigation works) shall cease immediately and the local 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 local planning authority or (b) the local 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 local 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 potential risk arising from previous land uses and any previous mining activity has been investigated and any requirement for remedial actions is suitably addressed.

Advisory notes

1. The length of the permission: This planning permission will lapse on the expiration of a period of five 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))

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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.

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.