

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 22 March 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Jennifer Stewart, Chairperson; and Councillors Duncan and Sandy Stuart.

The agenda and reports associated with this minute can be found at:-
<HTTPS://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=6311>

BELLFIELD FARM, SKENE ROAD, ABERDEEN - 170958/S42

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for planning permission for removal of conditions 07 (That occupation of the dwellinghouse shall be limited to a person solely or mainly employed on a full time basis in agriculture on the farm of Bellfield) and 08 (That the dwellinghouse shall be used in conjunction with applicant's business in farming, at no time be sold or otherwise disposed of as separate unit) of 88/0652 Erection of House.

Councillor Jennifer Stewart as Chairperson gave a brief outline of the business to be undertaken. She indicated that the LRB would be addressed by the Assistant Clerk, Mr Mark Masson with regards to the procedure to be followed and also, thereafter, by Mr Kristian Smith who would be acting as the Planning Adviser to the Body in the case under consideration this day.

The Chairperson stated that although the Planning Adviser was employed by the planning authority, he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

The Local Review Body was then addressed by Mr Masson, Assistant Clerk in regards to the procedure to be followed, at which time reference was made to the procedure note circulated with the papers calling the meeting and to more general aspects relating to the procedure.

In relation to the application, the LRB had before it (1) a delegated report by Ms Jane Forbes, Planner; (2) the decision notice dated 8 December 2017 (3) links to the plans showing the proposal and planning policies referred to in the delegated report; and (4) the application and Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

The LRB was then addressed by Mr Smith who advised that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes. He also indicated that the appellant had indicated that the LRB could continue without any further procedure.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

22 March 2018

The Chairperson and Councillors Duncan and Sandy Stuart all indicated that they each had enough information before them and therefore agreed that a site visit was not required and that the review under consideration should be determined without further procedure.

Mr Smith advised that the site comprised a detached house currently occupying a farm worker at Bellfield Farm, to the south of the A944 between Hazlehead and Kingswells.

Mr Smith provided some background details indicating the following:-

- 88/0652 – Planning permission for erection of house granted 5 July 1988 subject to conditions.
- Two conditions (Nos. 7 & 8) applied restricting occupancy to farm workers (and their dependants/widowers) associated with Bellfield Farm.
- This application sought the removal of the conditions restricting the occupancy of the house.

Mr Smith provided details of Condition 7, which stated that occupation of the dwellinghouse shall be limited to a person solely or mainly employed on a full time basis in agriculture as defined in Section 275 of the Town and Country Planning (Scotland) Act 1972 on the farm of Bellfield, Kingswells, Aberdeen or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason: in order that the dwellinghouse shall at all times be occupied by a person solely or mainly employed on a full time basis in agriculture associated with the farm of Bellfield, Kingswells.

Mr Smith provided details of Condition 7, which stated that the dwellinghouse shall be used in conjunction with the applicant's business in farming Bellfield Farm, Kingswells only and shall at no time be sold or otherwise disposed of as a separate unit.

Reason - in order that the dwellinghouse shall at all times be associated with the property known as Bellfield Farm, Kingwells.

Mr Smith then explained that (1) a section 42 application was used for varying conditions on a grant of planning consent; (2) the planning authority could only question the conditions subject to which planning permission should be granted; and (3) in considering such applications, the planning authority will either:-

- Approve the variation
- Approve with modifications (e.g. change and/or remove condition (s))
- Refuse the variation

He advised that when issuing a s42 consent, this superseded the original consent.

In terms of the appointed officer's case, Mr Smith advised that the application was refused, although the decision stated that removal of condition 8 would be acceptable,

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
22 March 2018

removal of condition 7 would be contrary to Scottish Planning Policy and policy NE2 – Green Belt. This was on the basis that if it were not for the original requirements of the business, the house would not be acceptable under these policies and would have been refused. The farm still operated and green belt policy still sought to prevent housing development though there were exceptions including farm workers. Accordingly, removal of the condition would be contrary to policy NE2 and Scottish Planning Policy.

Mr Smith made reference to the applicant's case as follows:-

- Change in circumstances since 1988 -
 - (a) Smaller farm (due to Countesswells development.);
 - (b) Move from dairy to arable/livestock is less labour intensive;
- Removal of condition won't result in suburbanisation – the house will still be there regardless; and
- Conditions fail to meet the 6 tests

Mr Smith indicated that no objections were received from the public or statutory consultees.

Mr Smith advised that in determining the review, members should also take into consideration any material considerations they feel were relevant to the application that would point to either overturning the original decision or dismissing the review. Members should keep in mind that the case office could only consider the conditions.

Mr Smith advised that the Local Review Body could:-

- dismiss this Review (and the conditions remain);
- allow and remove the requested conditions; or
- allow but vary the conditions.

If members were minded to remove conditions 7 and 8, he would advise that they remove all conditions as all other conditions related to technical matters during construction that are no longer relevant to the house (i.e. issue an unconditional approval).

Members agreed unanimously to overturn the decision of the appointed officer and to approve the application unconditionally.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application.

More specifically, the reasons on which the Local Review Body based this decision were as follows:- The removal of conditions 7 and 8 restricting occupancy of the house is considered acceptable on the basis the practices on the farm have changed since the

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
22 March 2018

farm was built, being less labour intensive, as well as the farming unit being smaller as a result of new housing development at Countesswells. Accordingly, it is considered the proposal would not conflict with policy NE2 - Green Belt of the Aberdeen Local Development Plan 2017 and Scottish Planning Policy.

The opportunity has also been taken to remove all other conditions as they are no longer relevant to the house or have been discharged.

- **COUNCILLOR JENNIFER STEWART, Chairperson**

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
22 March 2018