

FPRB Reference: 24/404

## Review Decision Notice

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Decision by Fife Planning Review Body (the FPRB)

- Site Address: Whitehill Sawmill Parkend, Crossgates, Cowdenbeath
- Application for review by Mr James Thomson against the decision by an appointed officer of Fife Council
- Application 24/00214/FULL for Full Planning Permission for Erection of dwellinghouse (Class 9) and associated development including formation of access on land adjacent to Plot 5
- Application Drawings:  
01 - Location Plan, 02 - Proposed Block Plan, 03 - Proposed Site Plan, 04 - Proposed various - elevation, floor etc, 05 - Specifications, 06B - Noise Report, 07 - Drainage statement/strategy, 08 - Low Carbon Sustainability Checklist, 09 - Report, 10 - Statement,
- No Site Inspection took place.

Date of Decision Notice: 7th January, 2025.

### Decision

The Fife Planning Review Body (FPRB) upholds, and varies, the determination reviewed by them and refuses Planning Permission for the reason(s) 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 16 December 2024. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Altany Craik, Ken Caldwell and Lesley Backhouse.

#### 2.0 Proposal

- 2.1 This appeal relates to a 0.1 hectare plot of brownfield land previously containing a sawmill on the northern side of the C26 Mill Farm Road between Crossgates and Aberdour. It lies to the west of an approved development for nine residential units (application no. 18/02191/ARC). Private access to the site is provided via the approved internal access road from the plot to Mill Farm Road. The plot is approximately 300 square metres in area. Adjoining the plot to the east is a house on Plot 5 of the aforementioned approved development, across the hammerhead, and to the east lie houses on Plots 6 and 7 of the approved development. There are dog kennels and an associated house to the west with Mill Farm Road beyond.
- 2.2 Full planning permission is sought for the erection of a two-storey dwellinghouse (Class 9) and associated development. This is a revised scheme to a refused planning permission for the erection of a dwellinghouse and associated development (application no. 22/02516/FULL).

### 3.0 **Reasoning**

3.1 Firstly, the FPRB considered noise, amenity and business continuity considerations assessing whether the proposal would result in an unsatisfactory noise environment that would prejudice the existing commercial kennels and future residential occupiers. They assessed the proposal against the amenity considerations within NPF4 Policy 14 (Design, Quality and Place) and 23 (Health and Safety), FIFEplan Policies 1 (Development Principles) 10 (Amenity) and Fife Council's Policy for Development and Noise 2021.

3.2 The FPRB found that:-

- The proposal would not comply with the 'agent of change' principles within NPF4 and related legislation requiring protection of existing noise generating uses and the need to avoid encroachment from sensitive uses that could compromise their existing operation.
- The FPFB noted the appellant's submission that noise impacts from the existing dog kennels could be overcome via appropriate glazing, closed window solutions and an acoustic fence. They noted, however, that limited information has been submitted on the potential noise reduction benefits associated with any future acoustic fence.
- Despite this, they noted that the proposal would introduce a noise sensitive residential use within close proximity to an existing dog kennel business and that this could introduce unacceptable noise impacts to the proposed residential uses, potentially compromising the future operation of the existing kennels.
- They agreed with the Case Officer and Environmental Health (Public Protection) on the methodological assessment required to assess noise impacts from the development, including that exceptional circumstances were not applicable.
- They considered that the uncontrolled impacts of dog barking and the departure from the Council's standard noise requirements (stipulating 'open window' assessment) in addition to potential detrimental impacts to new private garden ground would result in potentially unacceptable noise impacts to future residents and that sufficient evidence had not been presented to suggest otherwise.
- As such, the FPRB contended that the proposal would result in unacceptable noise and amenity impacts to future residents and would compromise an existing operational business contrary to NPF4 Policies 14 and 23 and FIFEplan Policies 1 and 10.

3.3 The FPRB then assessed the impact on the proposal on design, visual amenity and safeguarding the rural character and qualities of the Cullaloe Hills and Coast Local Landscape Area. They assessed the proposal against FIFEplan Policies 1 (Development Principles) 7 (Development in the Countryside), 8 (Houses in the Countryside) and 13 (Natural Environment and Access) and NPF4 policies 14 (Design, Quality and Place), 16 (Quality Homes), 17 (Rural Homes) and 29 (Rural Development) and Making Fife's Places Supplementary Guidance (2018).

3.4 They found that:-

- That the proposed external materials and finishes within the proposed development would be in keeping with the adjacent housing cluster and would be acceptable.
- Notwithstanding this, the proposal's position and size within a new plot would be relatively small, irregular and result in a cramped appearance compared to the other houses within the grouping.
- The constrained size and positioning of the additional dwelling on the edge of the existing dwellings would result in a poor visual and physical relationship with the cluster which would be at odds with the prevailing settlement pattern which includes large, detached houses with sizable gardens on generous plots.

- It was agreed that this would be an incongruous development that would result in detrimental impacts to the character of the Local Landscape Area.
  - As such, they agreed with the Case Officer's position that the proposal would result in unjustified, sporadic development that could contribute to the gradual erosion of the local landscape character and its qualities, stemming in unreasonable visual impacts to the surrounding area – contrary to FIFEplan Policies 1, 7, 8, 13 and NPF4 Policies 14, 16, 17 and 29 with respect to visual impact.
- 3.5 The FPRB then considered the potential road safety impacts associated with the proposal development assessing it against FIFEplan policies 1 (Development Principles) and 3 (Infrastructure and Services), NPF4 Policy 13 (Sustainable Transport) and the adopted Making Fife's Places Supplementary Guidance (2018).
- 3.6 It was found that:-
- The intensification of the existing access to the unrestricted distributor road (C26 Mill Farm Road) would be acceptable to the FPRB.
  - They noted that the proposed intensification of the access would result in a modest number of additional trips from one additional. However, they contended that this would not result in unreasonable traffic generation or road safety risks. This position as predicated on the implementation of visibility splays approved by the adjacent planning permission prior to occupation of the proposed development. It was agreed these could be secured via condition on any issued planning permission.
  - As such, the FPRB contended that the proposal complied with FIFEplan Policies 1 and 3 and NPF4 Policy 13 and reversed the Case Officer's refusal with respect to road safety.
- 3.7 Finally, the FPRB assessed the potential impacts of the proposal in relation to the management of flood risk and water management assessing the proposal against FIFEplan Policies 1 (Development Principles) and 12 (Flooding and the Water Environment); NPF4 policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation) and 14 (Design, Quality and Place).
- 3.8 They found that:-
- Non-submission of detailed pre-determination drainage information was not a legitimate reason to refuse the application, in this instance, given that confirmation has already been received from the applicant's engineers that the adjacent SUDS design had been designed to accommodate discharge from the proposed development.
  - The FPRB resolved that detailed drainage details could be provided via condition, if planning permission was approved and that they would require to be implemented prior to occupation of the proposed dwelling.
  - As such, the FPRB considered that the proposal would comply with FIFEplan Policies 1 and 12 and NPF4 policies 1, 2 and 14 with respect to flooding and drainage and overturned the Case Officer's position with respect to this issue.
- 3.9 The FPRB also agreed with the Appointed Officer's position in relation to the other planning considerations not forming part of the original reasons for refusal. They contended that these matters did not have any material impact that would change their position on this application and concluded that they should not be included as additional reasons for refusal in this instance.
- 3.10 The FPRB reviewed whether there were any material considerations associated with proposed development and considered that there were no material considerations that should be afforded significant weight to set aside a decision in accordance with the Development Plan.

3.11 Overall, the FPRB concluded that the proposal would result in unacceptable noise impacts to the surrounding area which could compromise the operation of the adjacent dog kennels and result in unacceptable amenity impacts to future residential occupiers. They agreed that the proposal would result in unreasonable visual impacts to the surrounding area. Despite this, they did not agree with the Case Officer on road safety suggesting that, subject to implementation of the approved visibility on the adjacent residential development, the increased utilisation of the approved access would be acceptable, without any unacceptable road safety impacts. They also considered that sufficient information could be provided via condition with respect to drainage and flooding, overturning the Case Officer's position with respect to this issue. They 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 refused, upholding (and varying) the Appointed Officer's decision.

#### **4.0 Decision**

4.1 The FPRB upholds, and varies, the determination reviewed by them and refuses Planning Permission for the following reason(s):

##### **REFUSE FOR THE FOLLOWING REASON(S):**

1. In the interests of residential amenity and business continuity; this development in close proximity to an existing commercial kennels predicted to benefit from an unsatisfactory noise environment, in turn prejudicial to operation of the kennels; contrary to adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles and 10: Amenity; adopted National Planning Framework 4 (2023) policies 14 Design, Quality and Place and 23 Health and Safety; and Fife Council Policy for Development and Noise 2021.
2. In the interests of residential amenity; the applicant having failed to adequately assess the effects of dog barking from the nearby dog kennels on the proposed amenity space to serve the development; the development therefore standing to be considered contrary to adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles and 10: Amenity; adopted National Planning Framework 4 (2023) policies 14 Design, Quality and Place and 23 Health and Safety; and Fife Council Policy for Development and Noise 2021.
3. In the interests of safeguarding the rural character and qualities of the Cullaloe Hills and Coast Local Landscape Area from unplanned, unjustified, sporadic, ad hoc development; the development expected to contribute to the gradual erosion of that character and those qualities; contrary to the provisions of adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles, 7: Development in the Countryside, 8: Houses in the Countryside and 13: Natural Environment and Access; adopted National Planning Framework 4 (2023) policies 14 Design, Quality and Place, 16 Quality Homes, 17 Rural Homes and 29 Rural Development; and Making Fife's Places Supplementary Guidance (2018).

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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.