

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 159 Main Street, Lochgelly, Fife, KY5 9JR
- Application for review by Mr John Hamill against the decision by an appointed officer of Fife Council
- Application 22/04007/FULL for Full Planning Permission for Alterations to and change of use from shop (Class 1A) to form enlargement to flatted dwelling (sui generis), including formation of window openings to front elevation
- Application Drawings:
07 - Low Carbon Sustainability Checklist, 01 - Location Plan, 02 - Block Plan, 03 - Existing various eg elevation, floor etc, 04 - Floor Plan Existing, 05 - Proposed various - elevation, floor etc, 06 - Photographs,

Date of Decision Notice: 10th May, 2024.

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 Fife Planning Review Body (FPRB) at its meeting on 29 April 2024. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Altany Craik, Robin Lawson and Ken Caldwell.

2.0 Proposal

- 2.1 The appeal relates to an approximately 56sqm retail unit located on the north side of Main Street, Lochgelly. Per the Local Development Plan, the application site is located within the Lochgelly Core Retail Area. The appeal site is towards the edge of the recognisable commercial area of the defined core retail area, with a takeaway premises being the only other commercial premises east of the site on the north side of Main Street. Aside from the applicant's adjacent ground floor flat, the terrace in which the site is located is characterised by ground floor commercial use with flats on the first floor. The commercial properties extend further on the south side of Main Street before once again converting to residential. The appeal site has been vacant for approximately 7 years, having previously been used as computer shop.

2.2 The appeal seeks planning permission to change the use of the retail unit to form an extension to the appellant's ground floor flatted dwelling. The enlargement is shown for use as a living area with shower room/WC and utility area all to the rear, connecting through to the existing flat by removal of a stretch of wall. The appeal proposal also includes the formation of residential style windows to the front elevation in lieu of the existing shopfront, with a rendered wall. The colour and type of render finish have not been specified. The proposed windows would match the appearance of the existing windows of the ground floor flatted dwelling.

3.0 **Reasoning**

3.1 Firstly, the FPRB assessed the principle of the development against Policy 27 of the NPF4 (2023) and Policies 1 and 6 of FIFEplan (2017).

- Despite the absence of any formal marketing evidence being provided by the appellant, the FPRB noted the long-term vacancy of the application site/retail unit (7 years). The FPRB also took into consideration the extent of vacant premises throughout the Lochgelly Core Retail Area, with a number of units vacant and continuously marketed for >25 years.
- Giving regard to the location of the appeal site, the FPRB noted that although it is located fairly centrally within the Lochgelly Core Retail Area as designated in FIFEplan, the appeal site was considered to be located on the periphery of the active shopping area where there is a transition to residential properties. They placed weight on this matter in their decision making.
- The FPRB considered that the permanent loss of the retail unit in this location, and given the extent of the vacancy of the unit, would not adversely affect the vitality and viability of the Core Retail Area.
- Whilst Policy 6 of FIFEplan does not support change of use from retail to residential use at ground floor level in Core Retail Areas in any circumstance, the FPRB considered that the development was supported by the thrust of Policy 27 of NPF4 objectives as it would not adversely affect the vitality and viability of the area, nor result in an undesirable concentration of dead frontages within the Core Retail Area given its location at the edge of the identified shopping area.
- The FPRB considered that Policy 27 of NPF4 should be given greater weight in the decision-making process than Policy 6 of FIFEplan.
- The FPRB therefore concluded that the principle of development would be acceptable, with the proposal complying with Policy 27 of NPF4.
- A series of material considerations were also afforded significant weight in their decision, strengthening support for the proposal and outweighing non-compliance with FIFEplan Policy 6. This included: the site's location on the outer edge of the retail area; the extensive vacancy period and poor marketability; and visual amenity benefits to the streetscape related to upgrades to the external appearance of the building.

3.2 The FPRB 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 in changing their position on this application and concluded that relevant conditions should be included on any issued planning permission, where relevant, in line with the Appointed Officer's recommendation. The FPRB did, however, recommend that a planning condition be used to secure details of the external finishing materials.

3.3 Overall, the FPRB concluded that the appeal proposal complied with the retail policy tests within Policy 27 of NPF4, with the FPRB giving more weight to this policy over Policy 6 of FIFEplan. They also placed significant weight on a series of material considerations in their decision to strengthened support and outweigh non-compliance with Policy 6 of FIFEplan. This included the length of vacancy and siting of the unit on the edge of the local centre not having an adverse impact on the Lochgelly Core Retail Area. In addition, visual benefits associated with improvements to the external apparencey of the building. The FPRB therefore decided that planning permission should be approved, overturning the Appointed Officer's decision.

4.0 **Decision**

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

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

1. The development to which this permission relates must be commenced no later than 3 years from the date of this permission.

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. BEFORE ANY WORK STARTS ON SITE, details of the specification and colour of the proposed external finishes shall be submitted for approval in writing by this Planning Authority.

Reason: In the interests of visual amenity; to ensure that the external finishing materials are appropriate to the character of the area.

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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.