

FPRB Reference: 23/400

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 7 Hollytree Road, Glenrothes, Fife, KY7 5DZ
- Application for review by Mrs Sharlene Swain against the decision by an appointed officer of Fife Council
- Application 23/01822/FULL for Full Planning Permission for Change of use of public open space to form vehicular access and driveway to front of dwellinghouse

Application Drawings:

- 01 - Location Plan, 02 - Site Plan, 03 - Proposed Site Plan
- No Site Inspection took place

Date of Decision Notice: 16th September 2024

Decision

The FPRB upholds 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 Fife Planning Review Body (FPRB) at its meeting on 2 September 2024. The Review Body was attended by Councillors David Barratt (Convener), Fiona Corps, Jane Ann Liston, Altany Craik and Ken Caldwell.

2.0 Proposal

- 2.1 The appeal site relates to a four sided area of Fife Council owned, grassed, public open space, with three well-established cherry trees. It contains a recently installed low-level timber rail along its north and west and partly down its east sides to address previous ad-hoc vehicular access over it and protect its integrity, and there are public footways around its west, (roadside), east and south sides. It is some 72m² in area, set to the front of two sets of L-shaped semi-detached, two storey dwellinghouses, one of which being the applicant's property with a front garden area entirely converted to a mono-blocked hardstanding area, and generally set within an established principally residential area of mixed style properties.
- 2.2 The appeal proposal relates to a change of use from public open space to form a vehicular access and driveway to the front garden hardstanding area of No. 7 Hollytree Road.

2.3 It has been established that the location of the three trees within the public open space area would all be set against or within the proposed tarmac hardstanding area, contrary to the locations detailed on the application's existing and proposed site plans, thus the adverse impact on all three trees would require their removal, albeit their removal is not detailed in the proposals for the application.

3.0 Reasoning

3.1 The FPRB firstly assessed the principle of the development and natural heritage/biodiversity considerations against Policies 3 (Biodiversity), 4 (Natural Places) 6 (Forestry, Woodland & Trees), 14 (Design, Quality & Place) and 20 (Blue & Green Infrastructure) of NPF4 (2023) and Policies 1 (Development Principles), 10 (Amenity) and 13 (Sustainable Transport) of FIFEplan (2017). They found that:

- Giving consideration to the above policies, the FPRB agreed that the change of use of the existing open space to a private driveway would not be acceptable in principle.
- The FPRB assessed the impact on the loss of the existing mature cherry trees within the open space. They concluded that insufficient information had been submitted to conclude the quantum of trees that may require to be removed and whether any compensatory planting could be accommodated within the retained areas of open space.
- The FPRB outlined concerns that such loss would not align with strategic objectives to strengthen nature networks, create nature positive places and establish biodiversity enhancement and would therefore fail to comply with NPF4 Policy 3,4,6 and FIFEplan policies 10 and 13.
- The FPRB also contended that they could not quantify whether such compensatory planting could provide sufficient biodiversity enhancement (net gain) given the limited accompanying landscape and arboricultural details.
- The FPRB therefore concluded that the principle of development and natural heritage/biodiversity considerations were not supported by the Development Plan and that there are no material considerations to outweigh the Development Plan position. The FPRB therefore upheld the Appointed Officer's decision on this matter.

3.2 The FPRB then assessed visual amenity considerations against NPF4 Policy 14 (Design, Quality & Place) and FIFEplan Policy 10 (Amenity).

- The FPRB contended that the existing area of open space played an important feature in establishing the setting of the immediate streetscape. They considered that its partial loss, combined with the risk of mature tree removal, would result in an unacceptable impact to the visual amenity of the area. They contended that this would not comply with NPF4 Policy 14 or FIFEplan Policy 10 and that there were no material considerations to outweigh the Development Plan position.

3.3 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. This included a review of road safety and transportation concerns from Transportation Development Management and whether potential conflict between reversing vehicles and pedestrians would result in unacceptable road safety impacts. Overall, 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.

3.4 Overall, the FPRB concluded that the proposed development would not be acceptable as it failed to comply with NPF4 Policies 3 (Biodiversity), 4 (Natural Places) 6 (Forestry, Woodland & Trees), 14 (Design, Quality & Place) and Policy 20 (Blue & Green Infrastructure) and Policies 1 (Development Principles), 10 (Amenity) and 13 (Sustainable Transport) of FIFEplan. They contended that the loss of open space/trees and the lack of compensatory planting and biodiversity enhancement details would result in unacceptable biodiversity impacts and detrimental impacts to the visual amenity of the immediate area. The FPRB 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 the Appointed Officer's decision.

4.0 Decision

4.1 The FPRB upholds 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 preserving visual amenity, natural heritage and biodiversity; the loss of the public open space and three cherry trees would have an adverse impact on the visual amenity, natural heritage and biodiversity of the open space and the surrounding area, contrary to adopted NP4 Policies 1, 3, 4, 6, 14 and 20, and adopted LDP Policies 1, 3, 10 and 13.

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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.