

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Bogside Farm Bogside, Blairhall, Alloa
- Application for review by Mr Ben McNeice against the decision by an appointed officer of Fife Council
- Application 23/03279/FULL for Full Planning Permission for Erection of two dwellinghouses and outbuildings with associated infrastructure
- Application Drawings:
02 - Site Plan, 21 - Statement, 05A - Site Plan, 06A - Site Plan, 07A - Proposed various - elevation, floor etc, 08A - Proposed various - elevation, floor etc, 09A - Proposed various - elevation, floor etc, 18A - Design and/or Access Statement, 20A - Sustainable Drainage Certificates, 22 - Drainage Plan, 23 - Drainage Details, 24 - Calculations, 01 - Location Plan, 03 - Aerial Photos, 04 - Topographic Site Plan, 19 - Low Carbon Sustainability Checklist,
- No Site Inspection took place.

Date of Decision Notice: 16th September 2024

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 2 September 2024. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Ken Caldwell, Altany Craik and Fiona Corps.

2.0 Proposal

- 2.1. The appeal relates to an area of agricultural land (approximately 6,100m²) situated within the countryside as defined by the Adopted FIFEplan. The site is located approximately 3km northwest of the settlement boundary of Blairhall and 5km southwest of the settlement boundary of Saline. The site is accessed from a private road which runs along the eastern boundary, leading from the A907. To the north of the site is three residential properties, including the B-listed West Bath House. Devilla Quarry is also further to the north. To the south of the site is a further three dwellings and to the west is agricultural land.

2.2 This appeal seeks planning permission for the erection of two dwellinghouses, outbuildings and associated works. The two proposed dwellinghouses would each have a footprint of approximately 220m², as well as 52m² garages linking via a car port and outbuildings. The properties would be finished in a white render with stone basecourse, slate roofs and grey aluminium windows and doors.

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). The FPRB found that:

- The FPRB considered that the proposal with respect to the various policies relating to houses in the countryside within the Development Plan. They contended that it would not meet the relevant tests within NPF4 Policy 16 as that the site was not allocated for housing neither would it comply with other exemptions within NPF4 Policy 17 policies allowing rural homes.
- Following this, the FPRB turned an assessment against FIFEplan Policy 8 (Houses in the Countryside) and in particular whether the proposal met the Policy 8 Criteria 2 test that supports housing in the countryside '*within an established and clearly defined cluster of five houses or more*'.
- The FPRB assessed the existing site context and considered that the two dwellings to the north (including Bath House Castle and Bath House Cottage) and three dwellings to the south of the site represented an existing housing cluster of five dwellings per the Guidance within Figure 8.2 of FIFEplan. They considered that the site would be visually connected to this existing housing grouping (i.e. cluster) by woodland, the road to the east and burn to the west.
- The FPRB then considered that the proposal would be of a scale and nature compatible with surrounding uses, would be within an acceptable location in terms of infrastructure and would be designed to protect land use and environmental quality.
- The FPRB therefore concluded that the proposal accorded with FIFEplan Policy 8 and they placed significant weight on this Development plan policy in determining the appeal. On account of this, and the above position, the FPRB contended that the proposal would comply with FIFEplan Policy 1 and 8 and that the principle of development for residential development in the countryside should be supported in this instance and these policies given primacy, and material weight, in their decision making. They therefore agreed that the proposal warranted support on this matter.

3.2 The FPRB then assessed the Roads and Transportation of the proposal against NPF4 Policies Policy 13 (Sustainable Transport) and Policies 1 (Development Principles), 3 (Infrastructure Services) and 11 (Low Carbon) of the Adopted FIFEplan and Making Fife's Places Supplementary Guidance (2018) Appendix G Transportation Development Guidelines. The FPRB Found that:

- They did not agree with the Appointed Officer and Transportation Development Management on the transportation requirements, in particular, non-compliance with the minimum visibility splay requirements and the future intensification of an existing substandard access.

- The FPRB considered that this existing access was currently being used by multiple existing residential properties and HGVs from the Devilla Quarry. They also noted that the two dwellings would not result in a material increase in the quantum of trips using this access. On this basis, the FPRB agreed that, on balance, the proposal would not result in additional road safety concerns and use of the existing access to the A907 would be acceptable in this instance.
- Accordingly, the FPRB concluded that the proposed development would be acceptable with respect to road safety and would accord with Policy 13 of NPF4 and Policies 1, 3 and 11 of FIFEplan, overruling the Appointed Officers position on this matter.

3.3 The FPRB then assessed the design / visual impact on the countryside & setting of listed building of the proposal on the surrounding character of the area against NPF4 Policy 7(Historic Assets & Places), NPF4 Policies 14 (Design, Quality and Place), NPF4 Policy 17 (Rural Homes) and FIFEplan Policies 1 (Development Principles), 8 (Houses in the Countryside) and 10 (Amenity), and Policy 14 (Built & Historic Environment). They contended that:

- The design of the proposal would be acceptable and would be designed to be in keeping with the character of the immediate area and the surrounding countryside. They agreed that the 1½ storey design elements, combined with 2-storey design features, would result in an acceptable building scale, cognisant of the siting/placement of these buildings within the western part of the site (excluding outbuildings) and the character of the surrounding residential and agricultural buildings. They agreed that the proposed massing would be acceptable within the site and that the 'lowered' northern outbuilding would be an acceptable height and suitably positioned; particularly when considered the setback to the B-listed Bath House Castle to the north, the prominence of the adjacent tree belt and the varied residential building types and agricultural outbuildings within the immediate context.
- The FPRB agreed that the building form within the plots would continue the existing settlement pattern within the existing housing grouping and that future development for two dwellings was consistent with built form expectations within this grouping.
- The FPRB considered that the proposed buildings within the site would be suitably screened within the wider context and contain suitable separation for nearby dwellings, particularly those to the north, accepting that interconnectivity to Bath House Castle would be limited, especially during spring and summer when tree canopy coverage would be high.
- They agreed that the use of traditional building materials for the proposed houses including white render, slate and stone basecourses complemented the character of existing buildings within the surrounding area and that the proposed outbuildings (and use of metal cladding) would be consistent with agricultural outbuildings within the wider area.
- The FPRB contended that the existing tree belt between the listed building and the site's northern boundary would provide a suitable landscape buffer that avoided any significant adverse impacts on the B-Listed Bath House Castle and its setting. They considered that this screening, and the listed building's location on a platform above the site, resulted in the listed building being read separately from the proposal, preventing any unacceptable detrimental impacts on Bath House Castle or its setting.

- Overall, the FPRB concluded that the proposal would be suitably scaled and sited with acceptable massing and materiality which would protect the overall landscape and environmental quality of the area and avoid unacceptable impacts to the nearby listed building. As such, they ultimately concluded that the proposal would comply with Policies 14, 17 and 29 of NPF4 and Policies 1, 10 and 13 of FIFEplan relating to design / visual impact on the countryside and the setting of the listed building. They therefore reversed the Appointed Officers position on this matter.

3.4 The FPRB assessed Natural Heritage / Biodiversity impacts with respect to NPF4 Policy 3 (Biodiversity) to conserve/enhance biodiversity and FIFEplan Policies 1 (Development Principles) and Policy 13 (Natural Environment) to safeguard the character and quality of the landscape and enhance natural heritage objectives. The FPRB found that:

- The FPRB agreed with the Appointed Officer that no additional ecological surveys would be required to determine the application.
- They acknowledged the appellant's aspirations for biodiversity enhancement and were encouraged by their commitment to provide '*a nature network to the west of the site linking to and strengthening habitat connectivity within and beyond the development*' and '*additional planting*' within the remainder of the site. However, they requested further details to confirm the tree species type, quantum and planting mixes in addition to the nature of specific biodiversity enhancements details within the site and green network area.
- In this regard, the FPRB contended a detailed landscaping and biodiversity enhancement scheme/plan would be required to confirm details for the required green network link, that shall include suitable tree planting and other enhancement features along the site's western boundary, extending north within land under the control of the applicant to ensure interconnectivity between existing green networks, woodland and tree belts to the north and south of the site. They agreed that this could be provided via a condition on any issued permission.
- Overall, subject the above condition, the FPRB considered that the proposal would provide sufficient measures to conserve, restore and enhance biodiversity in line with NPF4 Policy 3 and Policies 1 and 13 of FIFEplan. As such, the FPRB overturned the Appointed Officer's position on this matter.

3.5 The FPRB also agreed with the Appointed Officer's position in relation to the other planning considerations that did not form part of the original refusal reasons. 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.

3.6 Overall, the FPRB concluded the principle of development would be acceptable as the site was located within an existing, defined housing cluster (grouping) of five or more dwellings and would be suitably sited, scaled and designed to complement the character of the surrounding landscape and environmental quality of the area, with acceptable infrastructure provision. They resolved that there would be no unreasonable visual impacts to the local area or the B-Listed Bath House Castle or its setting given the design, setbacks to nearby buildings and the existing tree belt to the north. Moreover, the FPRB agreed that the proposal would not result in any natural heritage or biodiversity impacts subject to a condition requiring further landscape and green network details, including a tree belt running along the western and norther boundary to establish planting and biodiversity enhancement approaches. 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.

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

Reason: In order to comply with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. BEFORE ANY WORKS START ON SITE, samples of the external construction materials finishes of the dwellings (in particular relating to the roof, windows and walls) and boundary treatments shall be submitted to and agreed in writing with the Council as Planning Authority. Thereafter, the dwellings shall be constructed and finished in full accordance with the agreed samples prior to occupation unless otherwise agreed in writing by the Planning Authority.

Reason: To define the terms of this permission and ensure that the dwellinghouses are in-keeping with the character of the surrounding area.

3. BEFORE ANY WORKS START ON SITE, a scheme of landscaping indicating 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.

4. BEFORE ANY WORKS START ON SITE, a scheme of landscaping and biodiversity enhancement shall be submitted for approval in writing by the Planning Authority. This shall include tree planting green network strip along the western boundary of the site, returning along the northern boundary unless otherwise agreed by the Planning Authority. The scheme shall include the full details of the numbers, species and height at time of planting of all trees and other plants; biodiversity enhancement approaches with corresponding implementation timescales; and a long-term maintenance scheme for the tree planting. The tree planting shall be designed in a way that promotes biodiversity enhancement and ensures the provision of a wildlife corridor linking with other woodland planting in the area.

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

5. PRIOR TO OCCUPATION OF THE DEVELOPMENT, confirmation that the approved drainage proposals and/or SUDS have been constructed in line with current best practice shall be submitted to Fife Council. The required confirmation shall comprise the submission of a completed and signed Appendix 6 of Fife Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements. Thereafter, the development shall be carried out in accordance with the details approved unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the approved drainage and/or SUDS infrastructure has been constructed in accordance with the approved plans and in accordance with best practice.

6. IN THE EVENT THAT CONTAMINATION NOT PREVIOUSLY IDENTIFIED by the developer prior to the grant of this planning permission is encountered during the development, all development works surrounding the contaminated area (save for site investigation works) shall cease immediately and the 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 planning authority or (b) the 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 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 all contamination within the site is dealt with.

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Proper Officer

Advisory notes

1. 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)).
2. 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.