

FPRB Reference: 23/395

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Woodland At Craigs Plantation, Fordell, Dunfermline, Fife
- Application for review by Mr Paul Simpson against the decision by an appointed officer of Fife Council
- Application 23/01726/FULL for Full Planning Permission for Erection of holiday accommodation cabin and associated drainage infrastructure and formation of access (retrospective)
- Application Drawings:
 - 02A - Proposed various - elevation, floor etc, 03A - Planning Statement, 01 - Location, Block and Other, 04 - Drainage Plan, 05 - Drainage statement/strategy, 06 - Drainage Details

No Site Inspection took place.

Date of Decision Notice: 10th May, 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 29 April 2024. The Review Body was attended by Councillors Altany Craik (Convener), Robin Lawson, Ken Cauldwell and Jane Ann Liston.

2.0 Proposal

- 2.1 The application site measures approximately 4100 square metres, is located out with any settlement boundary and is within the countryside as designated within the Adopted FIFEplan (2017). The site is surrounded by a wooded area to the north, south and west with open countryside to the east and is located approximately 2 kilometres to the south of Crossgates with Dunfermline situated approximately 430 metres to the west. The woodland area directly surrounding the site is designated as semi-natural woodland by Nature Scot, whilst the woodland area to the north and south is part of Nature Scot's Ancient Woodland Inventory and is designated as long-established woodlands of plantation origin. The northern part of the site includes approximately 739 square metres of this ancient woodland. The site is also located within the Cullaloe Hills and Coast Local Landscape Area, the Letham Woods to Fordell Green Network Policy Area ((DGBGN02) and the Fordell Castle Garden and Designed Landscape as designated within the Adopted FIFEplan. The site is also within a Green Network Asset Area (1071) as per the FIFEplan. The east boundary is bound by an

approximately one-metre-high post and wire fence and the site is not visible from the B981 distributor road to the west. The site is classed as non-prime agricultural land. The area that forms part of the application site was historically part of a quarry, however, Google Earth aerial View shows that the site had re-naturalised and was covered in trees and grass between 2006 and May 2021. These trees and the grassed area were subsequently removed, and a Type 1 hardstanding area laid to form the access from the B981.

2.2 This application seeks full planning permission for the erection of a holiday cabin, associated drainage infrastructure and formation of access (retrospectively). The proposed holiday accommodation cabin would have a footprint area of approximately 92 square metres, would be approximately 3.5 metres high above ground level and would have a flat roof clad in single ply membrane, a grey coloured facing brick basecourse, dark grey coloured aluminium framed windows and doors and a standing seam steel finish to walls. The cabin would have one bedroom and a decking area measuring approximately 40 square metres. The building has been partially completed. The northern part of the application site (approximately 739 square metres) includes an area of Ancient Woodland, however, no development appears to be proposed within this area. A large area of approximately 2300 square metres is also included within the application site, however, there also appears to be no development proposed within this area.

3.0 Reasoning

3.1 Firstly, the FPRB considered whether the proposal was acceptable in principle, assessing the proposal for housing development out with the settlement boundary to consider whether it was compliant with strategic objectives for rural and countryside land under NPF4 Policy 29 (Rural Development), NPF4 Policy 30 (Tourism) and FIFEplan Policies 1 (Development Principles) and 7 (Development in the Countryside). The FPRB found that:

- The proposal would comply with NPF4 Policies 29 (Rural Development) and 30 (Tourism) and FIFEplan Policies 1 (Development Principles) and 7 (Development in the Countryside).
- They considered that the proposal would provide facilities for outdoor recreation and tourism which demonstrated a proven need for a countryside location' in line with tourism-related policy criteria within FIFEplan Policy 7 criterion 6.
- In this regard, they were persuaded by the appellant's submission that extensive tourist attractions within the immediate area would be accessible to future users and that the site's countryside location/setting would provide sufficient diversity to the current tourist accommodation within the settlement boundary, warranting support.
- They also accepted the appellant's submission that the site's proximity to sustainable travel routes could encourage specialist leisure or cycle-based tourism demand for the proposal. The FPRB then went on to agree that the site's countryside location would encourage cycling and non-car based trips to tourist facilities via the nearby cycle and core path network.
- They contended that, subject to conditions (agreeing suitable materials and detailed landscaping plans as discussed below), the proposal would be suitably scaled and designed to be compatible with the character of the surrounding area in line requirements in NPF4 Policy 29b) and NPF4 Policy 30. It was also concluded that the proposal would be suitably scaled and designed to protect the overall landscape and environmental quality the area in line with the relevant FIFEplan Policy 7 landscape character and visual amenity tests subject to conditions relating to ecological mitigation and enhancement.

- As such, the FPRB contended that, subject to the conditions discussed below, the proposal would accord with NPF4 Policies 29 and 30 and FIFEPlan Policies 1 and 7 in terms of the principle of development.

3.2 The FPRB assessed Natural Heritage impacts with respect to NPF4 Policy 3 (Biodiversity) to conserve/enhance biodiversity, NPF4 Policy 4 (Natural Places), NPF4 Policy 6 (Woodland and Trees) to protect trees/woodland and NPF4 Policy 29 (Rural Development) to avoid significant adverse impacts on landscape areas and FIFEPlan Policies 1 (Development Principles) and Policy 13 (Natural Environment) to safeguard the character and quality of the landscape/views and enhance natural heritage objectives. The FPRB:

- Outlined concerns relating to various unauthorised works that had been undertaken on the site including scraping of the land, formation of an access and an internal road without suitable tree reports or ecological assessments.
- They acknowledged that an exemption for tree removal had been issued by Forestry Scotland since the original decision had been determined.
- In recognition of this, the FPRB accepted that most intrusive works that had the potential to result in risk to arboricultural or ecological and impacts had already been undertaken, albeit unauthorised including: most specifically the internal driveway to the cabin, parking area and internal access road.
- Given this, the FPRB accepted that there was less risk that the proposal would result in unacceptable impacts to natural heritage objectives, including to trees and ecology, subject to inclusion of conditions requiring the provision of:
 - An Ecological Assessment - outlining suitable ecological mitigation to avoid potential impacts on protected species.
 - A Biodiversity Enhancement Plan - showing biodiversity enhancements within the site based on the above assessment
 - A Detailed Landscape Plan – informed by a Tree Survey, showing comprehensive specifications, species and landscape planting (including additional tree planting).
- Subject to provision the conditions and delivery of the requirements above, the proposal would not result in any significant adverse impacts on natural heritage and would comply with NPF4 Policies 3, 6 and 29 and FIFEPlan Policies 1 and 13.

3.3 The FPRB also agreed with the Appointed Officer's position in relation to road safety with respect to NPF4 Policy 13 (Sustainable Transport) and Policies 1 (Development Principles), 3 (Infrastructure Services) of 10 (amenity) the Adopted FIFEplan and Fife Council's Making Fife's Places Supplementary Guidance (2018) Appendix G Transportation Development Guidelines which identified minimum transportation requirements, including visibility splays. The FPRB found that:

- The southern visibility splay at the existing vehicular access to the B981 did not meet the technical requirements within Appendix G above. i.e. 130m x 3m instead of 210m x 3m.
- They found that an infringement of the technical requirements could be accepted in this instance given it related to an existing access used by other properties (including tourism huts) and that a modest increase in potential trips associated with the proposed tourist accommodation would not be significant. They placed weight on this position.
- They asserted that any increase would not result in an unacceptable intensification of the existing access nor would it result in additional road safety risks, beyond those already experienced by existing users.
- They agreed that the proposal would not result in any significant road safety impacts and would comply with NPF4 Policy 13 (Sustainable Transport) and Policies 1 (Development Principles), 3 (Infrastructure Services) and 10 (amenity) the Adopted FIFEplan and that a relaxation to visibility splays within Making Fife's Places would be acceptable given the above reasons and weighting.

- 3.4 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.
- 3.5 Overall, the FPRB concluded the principle of development would be acceptable as it would create tourist accommodation with a specific need for a countryside location. They contended that it would provide diversity to the existing tourist accommodation offer, particularly for leisure (and non-car) related tourism. They resolved that the proposal would be suitable scaled and designed to protect the overall landscape and environmental quality the area subject to suitable conditions. Moreover, they agreed that the proposal would not result in any natural heritage impacts subject to conditions requiring suitable mitigation based on ecological reviews (including for protected species) and biodiversity enhancement which would include detailed landscaping and tree planting plans. They considered that use of the existing access, and sub-standard visibility splay to the south, would be acceptable in this instance given the modest additional trips associated with the proposal. 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 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 FURTHER WORKS COMMENCE ON SITE, details of the specification, type and colour of external materials and finishes shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be constructed and finished in full accordance with the approved finishes 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 FURTHER WORKS COMMENCE ON SITE A Biodiversity Enhancement Plan shall be submitted and agreed in writing with the Planning Authority. Unless otherwise agreed, this shall be informed by:
 - An Ecological Assessment of the existing habitat within the site and ecological study area;
 - Protected species surveys for badgers and any other relevant protected species within the ecological study area;
 - a Tree Survey showing root protection, construction exclusion areas and an arboricultural implications assessment.

The Biodiversity Enhancement Plan shall include:

- ecological mitigation measures based on the above Ecological Assessment and protected species surveys;
- Biodiversity enhancement measures including but not limited to: planting species rich vegetation, native vegetation planting, bat and bird boxes, areas for additional compensatory tree replanting;
- Species Protection Plans for any protected species including future management, if applicable.

Thereafter, biodiversity enhancement measures within the approved Biodiversity Enhancement Plan shall be implemented for the lifetime of the development.

Reason: To avoid any significant impacts on species, to provide suitable ecological mitigation and to provide sufficient biodiversity enhancement within the site.

4. BEFORE ANY FURTHER WORKS COMMENCE 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.

5. BEFORE ANY FURTHER WORKS START ON SITE, details of foul and surface water drainage proposals shall be submitted for the written approval of Fife Council as Planning Authority. 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 that adequate drainage facilities are provided on site.

6. 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.

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

7. 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. 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.