

FPRB Reference: 24/401

## Review Decision Notice

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Decision by Fife Planning Review Body (the FPRB)

- Site Address: Woodside, Wester Forret, Kilmany, KY15 4PX
- Application for review by Mr Malcolm McIntosh against the decision by an appointed officer of Fife Council
- Application 24/00817/FULL for Full Planning Permission for Erection of dwellinghouse and formation of access
- Application Drawings:  
01 - Location Plan, 02 - Proposed Block Plan, 03 - Proposed various - elevation, floor etc, 04 - Proposed various - elevation, floor etc, 05 - Flood Calculations, 06 - Low Carbon Sustainability Checklist, 07 - Statement, 08 - Solar Panel Info
- No Site Inspection took place.

Date of Decision Notice: 11 November 2024.

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### 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 28 October 2024. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Altany Craik, Fiona Corps and Lynn Mowatt.

#### **2.0 Proposal**

- 2.1 The appeal relates to an area of grassland/paddock to the north of an existing residential dwelling (Woodside) located within the small settlement of Kilmany in a countryside location as defined by the Adopted FIFEplan (2017). There are a further six dwellings located to the south and south-east of the site. The site is access from a single-track road.
- 2.2 This planning application seeks planning permission for the erection of a single dwellinghouse and formation of access.
- 2.3 There is no previous relevant planning history associated with this site.

### 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 relevant policies for houses in the countryside within the Development Plan. They contended that whilst it did not specifically meet the allowable exemptions within NPF4 Policy 16 or NPF4 Policy 17, it did accord with the secondary tests for rural development within NPF4 Policy 17b relating to its contribution towards local-living and transportation needs appropriate to its rural context. They also agreed that, in this instance, there was no conflict between NPF4 Policy 17 and the FIFEplan housing policies.
- The FPRB therefore turned their assessment to 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, reviewing the proposal against the surrounding housing units, including six dwellings to the south of Woodside. Upon this review, they considered that the site formed part of an existing housing cluster of five or more dwellings per the Guidance within Figure 8.2 of FIFEplan. They considered that the site would be visually connected to this existing housing grouping (cluster) by the tree belt to the west, the scrub hedgerow to the north and the field boundary to the east. They considered that the proposal represented a logical infill and rounded off the existing housing cluster, with strong, defensible boundaries that distinguished this cluster from the rural farmland to the north and east.
- The FPRB also considered that the proposal would result in a similar spatial pattern of development to those within the existing cluster. They contended that the proposed built form would be of a scale and nature compatible with surrounding uses, 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, 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 and that these policies should be afforded primacy, and material weight, in their decision making. They therefore agreed that the principle of development was acceptable and warranted support, setting aside the Appointed Officer's position on this matter.

3.2 The FPRB then assessed the Roads and Transportation considerations against NPF4 Policies Policy 13 (Sustainable Transport) and Policy 14 (Liveable Places) 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, their position not to support the future intensification of an existing unrestricted distributor road outwith the built up area.

- The FPRB noted that the existing access was currently being used by the existing residential property (Woodside) and agreed that the minor increase in potential trips associated with the proposed development would be acceptable. They also acknowledged the crash map data submitted by the appellant outlining that there had been known road safety incidents on this junction or the nearby road network and afforded this due weight in their decision making. On this basis, the FPRB agreed that, on balance, the proposal would not result in unacceptable road safety concerns and that the use of the existing access to the U048 and 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 Officer's position on this matter.

3.3 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.

3.4 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. In addition, they agreed that the proposal would not result in any unreasonable road safety concerns, particularly as the existing private access was already in use. They therefore reversed the Appointed Officer's decision and considered that, on balance, 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 biodiversity enhancement to ensure a satisfactory standard of local environmental quality.

4. PRIOR TO OCCUPATION OF THE DEVELOPMENT, confirmation that the approved drainage proposals 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.

5. 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 two 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.