

FPRB Reference 22/377

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: 57 Chapel Road, Kirkcaldy, Fife, KY2 6TT
- Application for review by Mr Glen McGuire against the decision by an appointed officer of Fife Council
- Application 22/01302/PPP for Planning permission in principle for erection of dwellinghouse
- Application Drawings:
04 - Block Plan, 05A - Supporting Statement, 03 - Photographs, 01 - Location Plan,
- No Site Inspection took place.

Date of Decision Notice: 23rd June, 2023

Decision

The FPRB overturns the determination reviewed by them and grants Planning Permission subject to conditions as 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 12 June 2023. The Review Body was attended by Councillors David Barratt (Convener), Jane Ann Liston, Fiona Corps, Lynn Mowatt, and Alycia Hayes.

2.0 Proposal

- 2.1 This application site comprises an area of garden ground, driveway and access road which serve an existing dwellinghouse at 57 Chapel Road, Kirkcaldy. The application seeks planning permission in principle for erection of a dwellinghouse.

3.0 Reasoning

- 3.1 The determining issues in this review were the principle of development; garden ground; car parking; design and visual impact; residential amenity; drainage and flood risk; and low carbon measures.

- 3.2 The FPRB considered the terms of the Development Plan which comprises the Adopted National Planning Framework 4 (2023) (“NPF4”) and the Adopted FIFEplan Local Development Plan (2017) (“FIFEplan”). The FPRB also considered the provisions of Making Fife’s Places Supplementary Guidance (2018) (including Appendices) and Fife Council’s Planning Customer Guidelines on Garden Ground (2016).
- 3.3 Firstly, the FPRB assessed the principle of the proposed development against FIFEplan Policy 1 (Development Principles). They agreed that the proposal would be located within the settlement boundary in a residential area and, therefore, the principle would comply with FIFEplan Policy 1, Part A, subject to compliance with all other relevant development plan policies.
- 3.4 The FPRB considered the potential loss of garden ground to 57 Chapel Road as a result of the proposed development. There was some discussion against the Fife Council Planning Customer Guidelines on Garden Ground. The FPRB recognised that the garden ground would fall slightly below the standards set out in the Fife Council Guidelines. They acknowledged that the resulting garden should be proportionate to the size of the dwellinghouse. While a modest shortfall would not be ideal, it would not be unacceptable for the proposal. They concluded that it would not, in this instance, be unreasonable to accept a minor shortfall. They concluded that the potential under provision of garden ground for both 57 Chapel Road and the proposed dwellinghouse should not be a reason for refusal cognisant of the Development Plan policies and relevant planning guidance.
- 3.5 The FPRB assessed the proposed level of car parking against the Fife Council car parking standards as set out in Appendix G of Making Fife’s Places Supplementary Guidance. They noted that the reason for refusal regarding an unacceptable standard of car parking was on the basis of an indicative 2 bedroom bungalow. However, as part of consultation on the Notice of Review documentation, Fife Council Transportation Development Management since confirmed acceptance of an arrangement including two car parking spaces, one for the existing bungalow at 57 Chapel Road and one for the indicative one-bedroom property. The FPRB concluded that the proposal would be in compliance with the car parking standards subject to a planning condition requiring provision of the aforementioned two car parking spaces, one for each property.
- 3.6 The FPRB assessed the design and visual impact of the proposed development within the surrounding context. They acknowledged the findings of the Report of Handling, noting the proposal is for planning permission in principle. The FPRB considered whether the scale and massing of the proposal would be appropriate within its context and if it would appear incongruous. They acknowledged the appellant’s position regarding the surroundings being a densely populated residential area. They agreed to accept the Case Officer’s findings in relation to design and visual impact and concluded that the proposal could fit comfortably within this context and that they were content that the proposal would meet the policy requirements of NPF4 Policy 14 and FIFEplan Policy 10 with regard to design and visual impact subject to conditions requiring approval of the detailed design, siting and appearance of any future dwelling. Specifically, limiting its form to a single-storey-1-bedroom dwelling via a condition on any issued permission.

- 3.7 The FPRB then assessed the residential amenity impacts of the proposal on the surrounding area and in particular the potential for overshadowing and loss of daylight and sunlight to the neighbouring properties which had been raised in a number of the objections to the planning application. They considered the proposal against NPF Policy 14 (Design, Quality and Place), Policy 16 (Quality Homes), Policy 23 (Health and Safety) which seek to protect the amenity of the local area from unacceptable amenity impacts, including noise, and Policies 1 (Development Principles) and 10 (Amenity) of FIFEPlan which includes criteria requiring development proposals to demonstrate that there would be no significant detrimental impact on residential amenity. They agreed with the Case Officer's assessment of this matter, that the proposal would not result in unacceptable amenity impacts as set out in the Report of Handling subject to conditions requiring confirmation and approval of any future detailed design of a single-storey 1-bedroom dwelling.
- 3.8 The FPRB considered drainage and flood risk against NPF4 Policy 22 (Flood Risk and Water Management), Policies 1 (Development Principles), 12 (Flooding and the Water Environment) of FIFEplan (2017) and relevant guidance. They noted that Scottish Water had no objection to the planning application. They agreed with the Case Officer's assessment of this matter as set out in the Report of Handling. They concluded that details of the proposed drainage measures could be subject to a condition on any issued permission.
- 3.9 In terms of Low Carbon Measures, the FPRB assessed the proposal against NPF4 Policy 2, Policies 1 and 11 of FIFEplan (2017) and Fife Council's Low Carbon Fife Supplementary Guidance (January 2019). Again, they agreed with the Case Officer's assessment of this matter as set out in the Report of Handling. They concluded that details of the proposed low carbon measures via a low carbon checklist could be subject to a condition.
- 3.10 Overall, the FPRB concluded that the proposal would be acceptable in terms of the principle of development; garden ground; car parking; design and visual impact; residential amenity; drainage and flood risk; and low carbon measures subject to a number of conditions regarding detailed matters plus conditions restricting the development to a 1 bedroom, single storey dwellinghouse and the provision of two off-street car parking spaces. The FPRB did not consider there to be any other matters for consideration or any material considerations which would outweigh the Development Plan position.

4.0 Decision

- 4.1 The FPRB overturns the decision of the Appointed Officer and grants planning permission subject to the following conditions and reasons:
1. Application for any of the matters referred to in Condition 3 below shall be made before:-
 - (i) the expiration of 3 years from the date of the grant of this planning permission in principle;
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal or review against such refusal was dismissed, whichever is the latest.

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. The development to which this permission relates must be begun no later than two years from the date of final approval of the further application(s) required under Condition 3 below. For the avoidance of doubt, this planning permission in principle shall lapse on the expiration of 2 years from the date of the requisite approval being obtained unless development has begun.

Reason: To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997.

3. Approval of Matters Required by Condition application(s) submitted for the development hereby approved shall include the following, subject to agreement from the Planning Authority (acting reasonably):-
 - a) a location plan of all the site to be developed to a scale of not less than 1:2500, showing generally the site, any existing trees, hedges, walls (or other boundary markers) layout of the roads and sewers;
 - b) a detailed existing site plan to a scale of not less than 1:500 showing the existing site contours, the position and width of all proposed roads and footpaths including public access provision and the position of all buildings;
 - c) a detailed Site Plan to a scale of not less than 1:500 showing the site contours, the siting of the proposed buildings, finished floor levels, new walls and fences and details of proposed landscape treatment;
 - d) detailed plans, sections and elevations of all buildings proposed to be erected on the site;
 - e) details of any proposed external alterations and finishes to boundary walls and openings, as applicable;
 - f) details of the proposed method of surface water drainage and foul drainage;
 - g) design details for the internal site access, where it meets the existing access track, and the internal access road including road surfacing specification and verge design,
 - h) the colour and type of materials for all external materials;
 - i) a detailed plan to a scale of not less than 1:500 demonstrating off-street parking spaces in accordance with the current Fife Council Transportation Development Guidelines;
 - j) details of all boundary treatments, landscaping, including road verge planting, cycle racks, drying areas and amenity space;
 - k) details of waste and recycling provision of the proposed collection strategy;
 - l) a sustainability statement illustrating the developments' compliance with Fife Council's Low Carbon Fife Supplementary Guidance Document (2019); and
 - m) details of ground investigation and any potential contamination and any relevant remediation requirements, as applicable.

No work shall be started on site until the written permission of this Planning Authority has been granted for these proposals, or such other details as may be acceptable.

Reason: To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006) and to ensure that sufficient information is submitted to assess any detailed proposal.

4. BEFORE ANY WORKS COMMENCE ON SITE, a surface water management and drainage scheme (including all relevant calculations) shall be submitted and agreed in writing with Fife Council as Planning Authority. Following approval, this surface water management and drainage scheme shall be fully implemented before any development hereby approved commences and shall be retained and maintained for the lifetime of the development.

Reason: To ensure that adequate measures are put in place to deal with surface water drainage.

5. The scheme of landscaping required under Condition 3 shall provide details of 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.

6. PRIOR TO OCCUPATION OF THE DWELLING, two off-street parking spaces (one for the approved dwellinghouse and one for 57 Chapel Road) shall be provided within the site in accordance with the current Fife Council Transportation Development Guidelines and thereafter retained and maintained for the lifetime of the development.

Reason: To ensure adequate provision of off-street car parking.

7. IN THE EVENT THAT CONTAMINATION IS ENCOUNTERED that was not identified by the developer prior to the grant of this planning permission, all development works on site (save for site investigation works) shall cease immediately and the local 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 local planning authority or (b) the local 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 local planning authority, no part of the site shall be brought/

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 potential risk arising from previous land uses and any previous mining activity has been investigated and any requirement for remedial actions is suitably addressed.

8. FOR THE AVOIDANCE OF DOUBT, the dwellinghouse approved under this permission shall be single storey and include no more than one bedroom.

Reason: In the interests of protecting residential amenity and visual impact.

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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 five 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))

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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.