Fife Planning Review Body

FPRB Reference: 21/383

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| **Review Decision Notice** |

Decision by Fife Planning Review Body (the FPRB)

* Site Address: Land to the North of Main Street, Aberdour, Fife
* Application for review by CALA Management Ltd against the decision by an appointed officer of Fife Council
* Application 21/03908/FULL for Full Planning Permission for Formation of hardstanding to form 10 space site car parking area and formation of vehicular access (temporary period of four years) (retrospective)
* Application Drawings:

01 - Location Plan, 02 - Drainage Plan, 03 - Levels, 04 - Site Plan, 05 - Visibility splay plan, 06 - Supporting Statement, 07 - Photographs,

* No Site Inspection took place.

Date of Decision Notice: 29th August, 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. **Preliminary**
   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.
   2. The above application for Planning Permission was considered by the FPRB at its meeting on 14th August, 2023.   The Review Body was attended by Councillors Lynn Mowatt (Convener), Fiona Corps and Alycia Hayes.

**2.0    Proposal**

2.1 This application site comprises an area of hardstanding with associated access and footpath. The proposal seeks retrospective planning permission for the area of hardstanding to form a ten space car parking area and formation of the existing vehicular access for a temporary period of four years.

**3.0** **Reasoning**

3.1 The determining issues in this review were the principle of development; design and visual impact; residential amenity; road safety; natural heritage; and drainage and flood risk.

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”).

3.3 Firstly, the FPRB assessed the principle of the proposed development against FIFEplan Policy 1 (Development Principles) and FIFEplan Policy 7 (Development in the Countryside).  They considered that the proposal would be located outwith the settlement boundary of Aberdour as designated in the adopted FIFEplan and, therefore, the proposal would comprise development in the countryside. The proposal would not meet FIFEplan Policy 1, Part A, 1(a) and, therefore, 1(b) of Policy 1 would need to be met. The FPRB agreed that the proposal did not demonstrate a proven need for a countryside location as required by criterion 7 of FIFEplan Policy 7. The principle of the development does not comply with the Development Plan in this regard. However, they noted that there were material considerations that could set aside a decision being made in accordance with the development plan, as outlined below.

3.4 The FPRB assessed the design and visual impact of the proposed development. The FPRB agreed that, due to the temporary nature of the proposal, it would not have a lasting, long term visual impact on the surrounding area . It would, therefore, not have a significant detrimental impact on visual amenity. They agreed with the appellant that screen planting as suggested by the Case Officer in order to address any short term visual impact would not be a viable solution given the amount of time it would take for such planting to establish. Turning to design matters, the FPRB assessed the proposal against NPF4 Policy 14 and FIFEplan Policy 14 and in particular, whether it would meet the six qualities of successful places. They agreed that the proposal would not meet the six qualities of successful places. They acknowledged in their assessment that FIFEplan Policy 10 states that “where potential negative impacts are identified, development proposals may still meet the requirements of this policy if suitable mitigation is implemented.” The FPRB considered that a condition requiring the reinstatement of land to its original condition with enhancements such as hedges and shrubs would be sufficient in order mitigate any potential negative design and visual impacts.

3.5 The FPRB then assessed the residential amenity impacts of the proposal against FIFEplan Policy 10 noting that development should be compatible with its surroundings and not adversely affect the privacy and amenity of neighbours. They concluded that the neighbouring properties have fencing which would be sufficient to protect their privacy from the development. With regard to any potential amenity impact arising from traffic noise, they noted that this could arise from cars arriving in the morning and leaving in the evening, however, this was unlikely to have a significant detrimental impact on residential amenity. The FPRB concluded that the proposal is in accordance with FIFEplan Policy 10 in relation to residential amenity.

3.6 The FPRB assessed the potential road safety implications of the proposal against Policy 1 (Development Principles) of the Adopted FIFEplan and NPF4 Policy 13 (Sustainable Transport). They noted that Fife CouncilTransportation Development Management raised no objection, subject to conditions relating to visibility splays, vehicular crossing of the footway and the erection of the proposed gates and that the Case Officer agreed with Transportation Development Management’s position on this matter. The FPRB concluded that the development could be acceptable in relation to road safety subject to the noted conditions with the exception of the condition regarding the proposed erection of gates given that the appellants have since confirmed that the gates are no longer required and subject to some amendments to the wording of the proposed conditions to reflect the retrospective nature of the application.

3.7 The FPRB assessed the potential impacts of the proposal on natural heritage against FIFEplan Policies 1 and 13. They agreed with the Case Officer’s position that any impacts could be mitigated via a condition requiring the land to be reinstated to its original state (with the addition of hedges and planting) when the planning permission expires.

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 concluded that the proposal would be acceptable subject to a condition requiring submission and approval of temporary drainage details.

3.9 In concluding their assessment of the application, the FPRB agreed that while the proposal is contrary to FIFEplan Policies 1 and 7 in that it did not demonstrate a proven need for a countryside location and therefore is not in a location where the proposed use is supported by the Local Development Plan, there are material considerations which outweigh a decision being made in accordance with the Development Plan. In this instance, they considered that the proposal was acceptable due to the temporary nature of the development and that conditions could be used to limit the duration of the planning permission and reinstatement to the site’s original state upon cessation of the temporary use. They placed significant weight in reaching their decision on this matter. Moreover, the FPRB noted that they could include a requirement for the addition of landscaping enhancements within two months of expiry of the planning permission. The FPRB also placed weight on the potential road safety benefits of the proposal which they agreed could assist in preventing the potential overspill of parked cars onto the surrounding road network and, in particular, could prevent unauthorised on-street parking on Main Street.

3.10 Overall, the FPRB concluded that the proposal would be acceptable subject to the noted conditions. They voted to overturn the Case Officer’s decision, subject to conditions and agreed to delegate the precise wording of these conditions to the Head of Planning and Head of Legal and Democratic Services.

**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. Planning permission is for a temporary period and therefore, will expire on 31st December, 2025. All development approved under this permission shall be removed within two months of the date of expiry and the land, including parking areas, crossing, verges, visibility splays and adjacent footpath fully reinstated to its pre-development condition with additional landscaping as approved under Condition 2, unless otherwise agreed in writing with this Planning Authority.

**Reason:** In the interests of protecting amenity and ensuring this temporary development remains as such.

1. Prior to the expiry of this permission, a scheme of landscaping providing 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 expiry of this permission unless otherwise agreed in writing with the Planning Authority.

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

1. Within one month of the date of this permission, a surface water management and drainage scheme (including all relevant calculations) shall be submitted to, for the approval of, Fife Council as Planning Authority. Following approval, the surface water management and drainage scheme shall be fully implemented within one month and shall be retained and maintained for the lifetime of the temporary development.

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

1. All planting carried out on site (as approved under Condition 2) shall be maintained by the developer in accordance with good horticultural practice for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually.

**Reason:** In the interests of visual amenity and effective landscape management; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

1. For the avoidance of doubt, the visibility splays shown on Document 05 shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and the public road, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained through the lifetime of the temporary development.

**Reason:** In the interest of road safety; to ensure the provision of adequate visibility at the junctions of the vehicular access with the public road.

1. For the avoidance of doubt, the grass verges to the site boundaries shall be maintained in accordance with good horticultural practice and for the lifetime of the temporary development.

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

**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))

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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.