



Appeal Decision Notice

Decision by Amanda Chisholm, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2443
- Site address: Backhill of Culbirnie, Banff, Aberdeenshire, AB45 2EB
- Appeal by Mr D Shand against the decision by Aberdeenshire Council
- Application for planning permission APP/2018/0015 dated 8 January 2018 refused by notice dated 26 May 2023
- The development proposed: Erection of five number dwelling houses for enabling development, change of use of agricultural land to domestic
- Date of site visit by Reporter: 27 July 2023

Date of appeal decision: 14 September 2023

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

An application for planning permission for ten dwelling houses was also submitted by the appellant for an adjacent site (APP/2020/2438). That application has also been refused by Aberdeenshire Council, and a separate appeal lodged. I have issued a separate decision notice for that appeal, under reference PPA-110-2442.

The two residential developments, comprising fifteen dwellings, are together proposed to provide enabling funding for an approved rehabilitation and hydrotherapy centre and associated accommodation at Hilton Park Farm (APP/2017/3261), some 600 metres to the southeast of the appeal site.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises National Planning Framework 4 (NPF4) (adopted 13 February 2023), and the Aberdeenshire Local Development Plan (LDP) (adopted January 2023). Having regard to the provisions of the development plan, the main issues in this appeal are: the principle of development, in particular housing in the countryside and whether the proposed dwelling houses would comprise enabling development; the impact of the proposed design and materials, including on landscape character; and sustainable transport.

2. The appeal site is an agricultural field located adjacent to an unclassified minor public road, some 400-500 metres east of Backhill of Culbirnie farm, five kilometres southwest of Banff. The site is bounded by the public road to the northeast, by agricultural fields to the southwest and west, and by Hilton Community Hall to the southeast. The

community hall sits beside the Hilton Crossroads. Across the road is Hilton Cottage, with another three residential properties approximately 100 metres to the southeast.

3. The proposed development, some 1.5 hectares in area, comprises three single storey and two one-and-a-half storey detached dwelling houses with garages, sitting in their own garden grounds, immediately adjacent to the northeast boundary of the aforementioned proposal for ten dwelling houses. Access would be from the minor public road.

Principle of development

4. As the appeal site is not located within a settlement boundary identified by the LDP, it constitutes a proposal for housing in the countryside. As noted under “preliminary matters”, the five dwelling houses are proposed as an enabling development. Accordingly, I have considered the principle of development in terms of both the principle of new housing development in the countryside and that of enabling development.

5. Housing in the countryside is provided qualified support by both Policy 17 of NPF4 (Rural Homes) and the LDP’s Policy R2 (Development Proposals Elsewhere in the Countryside). I consider the factors pertinent to this appeal in the following paragraphs.

6. The appeal site is in the remote rural area defined by the LDP’s Spatial Strategy. Paragraph (c) of Policy 17 supports proposals for new homes in remote rural areas where the proposal supports and sustains existing fragile communities and supports identified local housing outcomes. There is no evidence before me to suggest that this is a fragile community. I note that contributions would be required toward the provision of affordable housing within the school catchment of Banff Academy, and that this has been accepted by the appellant.

7. As well as being in the remote rural area, the appeal site is located outwith the green belt and coastal zone boundaries (defined in Appendices 4 and 5 of the LDP respectively). In such areas, LDP Policy R2 permits small-scale development of the type that would be permitted in the green belt under Policy R1 (Special Areas). NPF4 Policy 17 provides similar support. However, I consider that the development would not comply with the six criteria set out in the policy, given that it is not:

- development associated with agriculture, woodland and forestry, fishing or horticulture;
- development for a recreational use;
- development meeting a national requirement or established need;
- intensification of an established use;
- accommodation within the immediate vicinity of the place of employment required for a worker in a primary industry, where the presence of a worker is essential to the efficient operation of the enterprise; or
- essential infrastructure.

8. In remote rural areas Policy R2 also allows the extension of existing clusters of houses consisting of five to fourteen separate habitable or occupied homes (on the date of the LDP’s adoption). I note that the nearby dwelling houses cannot be considered such a cluster, given that there are only four in number. While on the whole these relate well to one another, with three of them sharing curtilage boundaries, I do not consider that the proposed five dwellings would contribute towards establishing a cohesiveness among the group. In my view the proposal would present as a larger housing development, that would be separate rather than co-existing with the housing already present. In any case, Policy R2 limits the number of homes permitted during the plan period to only three dwellings.

9. In terms of enabling development, LDP Policy B4 (Special Development Areas) supports helping start-up businesses in the identified Regeneration Priority Areas by allowing co-funding through modest housing developments, where these are essential to allow the development to proceed. Appendix 3 of the LDP applies Policy B4 to the towns of Banff, Macduff, Fraserburgh and Peterhead, and requires that development proposals be within 200 metres of the settlement boundary. Given the distance of the appeal site from Banff, the provisions of Policy B4 do not apply.

10. Drawing all of the above together, I find that the proposed dwellings would not satisfy the requirements of national and local policies in regard to housing proposals in remote rural areas, nor accord with the requirements of local policy on enabling development. In consequence I consider that the principle of development is not supported.

Design and materials

11. NPF4 Policy 14 (Design, Quality and Place) and LDP Policy P1 (Layout, Siting and Design) encourage well-designed development and support proposals that are consistent with the six qualities of successful places. NPF4 Policy 14 also identifies scale, built form and sense of place as key design elements, including in rural locations. In addition, LDP Policy E2 (Landscape) does not support development that causes unacceptable effects through its scale, location or design on key characteristics, natural landscape elements, features or the composition or quality of the landscape character.

12. At the site inspection I observed that the appeal site sits within an open, gently rolling landscape with occasional low rounded hills, such as the Hill of Culbirnie to the southwest of the appeal site. This landscape is characterised by agricultural fields, with small clusters of houses, as well as individual houses and the buildings associated with farm steadings. On the whole there is little woodland, apart from small groups of mature trees, mainly associated with housing. Field boundaries tend to be post-and-rail fencing and hedges. There are two wind turbines associated with the Hill of Culbirnie, as well as several turbines visible on the northwestern skyline.

13. I accept that some aspects of local vernacular are reflected by the proposed house designs, for example, the use of traditional elements and the style of gables and dormers, and the proposed use of render finish and natural slate roof tiles. I agree with the council that the contemporary house designs proposed are broadly acceptable. However, the proposed number of dwellings would more than double those already at the Hilton Crossroads. In addition, their proposed layout means that the development would present more as a ribbon of houses along the road, rather than reflecting than the usual close grouping of residential properties in this locale. I consider that the proposal would extend the existing housing group and change the pattern of residential development in a way that would be out of step with the character of this rural environment. Overall, therefore, I consider that the proposal does not accord with NPF4 Policy 14, LDP Policy P1 or Policy E2. I am also of the view that it does not accord with the requirement of NPF4's Policy 17 that development proposals for new homes in remote rural areas be suitable in terms of location and environmental impact, given its effect on landscape character.

Sustainable transport

14. LDP Policy RD1 (Providing Suitable Services) requires development to be located and designed to take advantage of or incorporate the services, facilities and infrastructure necessary to support it. The council's Environment and Infrastructure Services (Roads Development) did not object to the application, subject to conditions and informatives

relating to technical design matters and requirements. I note, however, the lack of public transport opportunities in the area, which would make residents dependent on private car journeys. As noted in the decision notice for appeal PPA-110-2442, there is a bus stop located on the A98, just over a twenty-minute walk from the appeal site. However, at the site inspection I observed that the minor public road to the appeal site from the A98 is a narrow road with passing places. There are no footways or lighting. According to the Ordnance Survey map, the A98 is over two kilometres from the appeal site. Taking these issues together, I consider that this route would not be well-suited to regular pedestrian use, particularly by children, and also in light of the short days in winter when pedestrians would be walking in the dark. I agree with the council that the proposed development would have poor connectivity with public services and facilities. I therefore consider that the proposal would not accord with the requirements of Policy RD1.

15. The intent of NPF4 Policy 15 (Local living and 20 minute neighbourhoods) is to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods, with the focus on settlements. Policy 17 is the main NPF4 policy directed at rural homes and I therefore do not consider the detail of Policy 15 to be of any great relevance to the appeal proposal, given its location in the remote rural countryside.

Assessment against the development plan

16. The appeal proposal's location and the number of dwellings and layout proposed means that it would be out of step with the character of the open agricultural landscape in this locale, including the existing pattern of residential settlement. The proposal therefore does not accord with NPF4 Policies 14 and 17, and LDP Policies P1 and E2. I am, however, satisfied that the proposed traditional design elements and external materials would be appropriate. To this extent I consider that the proposal would comply with the requirements of NPF4 Policy 14 and LDP Policy P1.

17. Given my conclusion that the proposal would result in residents relying on use of private cars, I find that the proposal does not accord with LDP Policy RD1.

18. Finally, I find that the proposed development would not accord with the provisions relating to housing in the countryside of NPF4 Policy 17 and LDP Policy R2. Neither does it satisfy the locational requirement of LDP Policy B4 in regard to enabling development. The principle of development is therefore not supported.

Material considerations

19. The appellant has drawn my attention to the perceived need for the rehabilitation and hydrotherapy centre in northeast Scotland, and I note the two letters of support that endorse the proposal for the centre. I have had regard to the business plan and valuation report provided by the appellant, as well as the information submitted by the council, setting out the results of the independent review and analysis of the costings information provided by the appellant. However, I do not consider that these submissions sufficiently demonstrate the need for and benefits of the centre, for example, there is no rigorous assessment of the kind that I would expect from a feasibility study of the project. In addition, the council's independent review has indicated that the enabling development is considered to be unviable, as the cost to develop the house plots would exceed the potential return from the sale of these plots, and there is no information before me that addresses these points or provides an adequate business case for the ability of the enabling development to provide the funding necessary for the rehabilitation centre.

20. I am aware that a Section 75 agreement was proposed to tie the two proposed housing developments to the rehabilitation centre. However, it is not apparent how this planning obligation could achieve sufficiently clear linkage between the development of the houses and the delivery of the rehabilitation centre.

21. While I accept that, despite the lack of information before me, the rehabilitation centre may well have benefits, I do not consider that these outweigh the difficulties I have identified in the preceding paragraphs: not only the effects on landscape and the lack of sustainability, but also that the principle of this type of development in this location is not supported by the development plan.

22. Finally, I note the complaint set out in the appeal statement, regarding the unexplained delay between the planning committee's delegation of approval on 19 February 2019 to the Head of Planning and Building Standards, in the event of satisfactory conclusion of a S75 agreement, until 2 May 2023, when a further planning committee meeting was held to determine the application. The council has not provided its reasons for the delay in its response to the appeal. However, this is a matter between the appellant and the council, rather than being within the remit of this appeal. I am therefore unable to make any comment in this regard.

Conclusions

23. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions

Amanda Chisholm
Reporter