

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 10 MAY 2024

1 BROCHIE COTTAGES, MONIKIE, DUNDEE

REPORT BY JACKIE BUCHANAN, DIRECTOR OF LEGAL, GOVERNANCE & CHANGE

1. ABSTRACT

This Report seeks Committee clarification of its decision at the meeting on the 19 February 2024 to uphold a non-determination appeal and grant planning permission for the Erection of a Dwellinghouse at 1 Brochie Cottages, Monikie.

2. ALIGNMENT TO THE COUNCIL PLAN AND COUNCIL POLICIES

This Report contributes to the following local outcomes contained within the Angus Council Plan 2023-2028:

- Caring for our people
- Caring for our place

3. RECOMMENDATION

It is recommended that the Committee:-

- (i) Provides clarification of the decision of the Development Management Review Committee of 19 February 2024 in accordance with Section 43A (12)(a) of the Town and Country Planning (Scotland) Act 1997 and Regulation 22(2)(viii) of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

4. BACKGROUND

The DMRC at their meeting of the 19 February 2024 considered an application for a review of the non-determination of planning application No. 23/00400/PPPL - Erection of a Dwellinghouse at 1 Brochie Cottages, Monikie.

Section 25 of the Town and Country Planning (Scotland) Act 1997 (hereinafter "the 1997 Act") requires a planning authority: *"Where in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan"*.

Section 37(2) of the 1997 Act further requires the planning authority, when dealing with an application, to: *"... have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."*

Section 37(2A) of the 1997 Act also requires a planning authority to provide a statement in its decision notice as to whether it considers the application for a development is in accordance with the development plan, together with an explanation of why the authority has reached that decision.

Section 43A(12) of the 1997 Act, along with Regulation 22(2)(viii) of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013, requires a decision notice to give the reasons for a decision of a review board, as well as details

of the provisions of the development plan, and any other material considerations, to which the local review body had regard, when determining the application.

A decision notice therefore requires to be clear whether the proposal accords with the development plan or not and set out any material considerations considered by the review in arriving at that decision. All such reasons must be proper, adequate and intelligible.

5. CURRENT POSITION

The DMRC at the meeting of 19 February 2024 determined to uphold the application for review and grant planning permission subject to conditions as it was their view that the proposal complied with the relevant policies of National Planning Framework 4 and the Local Development Plan as it supported rural development, sustainable housing in the rural area and would round-off an existing building group and therefore met with Policy TC2 of the Angus Local Development Plan 2016.

It was however not clear from the deliberations of the Committee why they considered the proposal to be in accordance with the development plan. The development plan comprises National Planning Framework 4 and the Angus Local Development Plan 2016 and its associated Supplementary Planning Guidance.

Reference was made by the Committee that the application was in accordance with NPF 4 Policy 17 however, it is unclear what parts of NPF 4 Policy 17 the Committee was of the view that the application was in accordance with. Reference was made by the Committee to material considerations however it was unclear why the Committee considered these to be material and applicable weight to be attached to these in their decision.

6. PROPOSALS

Clarification is therefore required by the Committee on what specific provisions of the development plan the proposal was determined to be in accordance with, the specific reasoning of why the material considerations were determined to be material and the weight applied to the material considerations referenced.

7. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the recommendations of this report.

8. RISK MANAGEMENT

There are no issues arising from the recommendations of this Report.

9. ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications arising from the recommendations of this report.

10. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

An Equality Impact Assessment is not required.

11. CONSULTATION

The Service Leader – Planning and Sustainable Growth/Chief Planning Officer has been consulted in the preparation of this Report.

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List of Appendices:

APPENDIX 1 – [Report 23/24](#) to Committee on 19 February 2024

APPENDIX 2 – Minutes of the Meeting of Committee on 19 February 2024