

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE - 1 AUGUST 2024

FALLADY COTTAGE, FORFAR

REPORT BY THE DIRECTOR OF LEGAL, GOVERNANCE & CHANGE

1. ABSTRACT

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission, application No 23/00763/FULL, for the erection of two dwelling houses within the existing garden grounds at Fallady Cottage, Forfar.

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. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) consider and determine whether to consider the new information as detailed at Section 5;
- (ii) consider and determine if further procedure is required as detailed at Section 4;
- (iii) if further procedure is required, the manner in which the review is to be conducted;
- (iv) if no further procedure is required:
 - (a) review the case submitted by the Planning Authority (**Appendix 1**); and
 - (b) review the case submitted by the Applicant (**Appendix 2**).

4. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information to determine the Review without further procedure. If members do not determine the review without further procedure, the Review Committee must determine the manner in which the review is to be conducted. The procedures available in terms of the regulations are: written submissions, hearing sessions or inspection of the land to which the review relates.

5. NEW INFORMATION

The Planning Review Statement submitted by the applicant includes matters which were not raised in the first instance to the planning authority when the application was submitted.

The Town & Country Planning (Scotland) Act 1997 states:

43B Matters which may be raised in a review under section 43A

- (1) In a review under section 43A(8), a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate -

- (a) that the matter could not have been raised before that time, or
- (b) that it is not being raised before that time was a consequence of exceptional circumstances.

Accordingly, the applicant may not raise new matters unless those matters could not have been raised before or exceptional circumstances explain which matters were not raised before.

The applicant explains the reasons for raising the new matters in the Notice of Review application.

The Committee requires to determine if the foregoing statutory requirements have been met.

Should the Committee decide that the requirements have not been met, then the Committee must not take those new matters into account when determining the Review.

6. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the recommendations in this Report.

7. RISK MANAGEMENT

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

8. ENVIRONMENTAL IMPLICATIONS

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

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

An equality impact assessment is not required.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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List of Appendices:
Appendix 1 – Submission by Planning Authority
Appendix 2 – Submission by Applicant