

PLANNING APPLICATION REF NO: 23/0179/PP – NOTICE OF REVIEW

Appointed Officer Consultation Response

After consideration of the objections/representations submitted by third parties in relation to the Notice of Review, the appointed officer can make the following comments.

In the assessment of a planning application, guidance on what is a material consideration is set out in Scottish Planning Circular 3/2013: Development Management Procedures. It states that the range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case.

There are two main tests in deciding whether a consideration is material and relevant:

- It should serve or be related to the purpose of planning. It should therefore relate to the development or use of land, and
- It should relate to the particular application.

Examples of possible material considerations include:

Planning policy

Development plan policy

The environmental impact of the proposal

The design of the proposed development and its relationship to its surroundings

Access, provision of infrastructure and planning history of the site

Public concern or support expressed on relevant planning matters.

Eighteen letters of objection/representation raising the same points were submitted by third parties in relation to the Notice of Review. These have been fully considered and any new matters raised are summarised below under the key headings used in these letters. Matters that were before the appointed officer when the original decision was made are not included in the summary below.

1. The Interested Parties Initial Statement to the Planning Review Panel

Objectors have requested all objections to previous applications for the site be taken into account in relation to this application and review.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

In an effort to halt the time required by everyone involved in considering these continuous unsuccessful applications for this site, we would like to set out alternative proposals for the site.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

2. Statements to the Applicants

Objectors want to ask the applicants when they are finally going to accept that their planning applications for the site are absolutely not acceptable to the majority of the community in Lochwinnoch.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

Objectors have stated that they are appealing to the applicants' better nature, to let the proposed development of this site go for their benefit and peace of mind as well as that of the objectors.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

3. Recent History of the site 1991-2023

In the early 1990's a person who has lived in Lochwinnoch for more than 30 years wanted to further develop the appeal site into a 'woodland garden', and up to present day has become naturally overgrown and has remained undisturbed for around 170 years. That person laid claim to the land and after 10 years of this claim being uncontested was advised that no further action was required. However, it appears that this advice was wrong and needed legal actions and, in the meantime, the applicant pursued her own claim for the land legally and was successful. The history of the site and historical objection to the development of this site should be taken into account. It is hoped to bring the plot back into public ownership where the community can manage it and keep it in a natural state, as it has been for the last 160 years, as a natural woodland garden, for the benefit of all in Lochwinnoch. This could be similar to what the LCDT are doing at Lochhead gardens, and ask RC for a Community Asset Transfer, to extend the plot with the council owner land to the rear of the garden. This is one of the last areas of woodland within the village.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

4. Objections and further Representations

Trees - Even although four trees, in bad condition, have been felled, the planning department still refused planning permission. If the applicants had been more proactive with better conservation of the ground conditions, soil, tree maintenance and management, these trees would never have needed felling.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

Certificate and Notes and the Land Ownership Certificate – Objectors state that they are not convinced that the appropriate land ownership certificate was completed on the first application for this site made by the appellants. Could the LRB clear this up.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

5. Examination/Representations on the Tree Report

No new matters raised.

6. Representations on the Notice of Review Document

The objectors note that the registered address of the appellant is in Clarkston Road, Glasgow. They wish to ask the LRB why this appeal should be granted when the appellants do not even live in Lochwinnoch anymore.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

The objectors would like to ask the appellants a list of questions on why they think they should now be given consent given the past refusals and past objections to the proposal.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

The objectors want to ask the appellants, why they accepted written representations and have not asked for a site visit or to present their evidence as part of any review. Is it because it's a very weak case.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

7. Representations/Objections to the Planning Appeal Statement

Objectors state that the appellants claim in their statement that they will sensitively care for and manage the trees on site by pruning back and getting rid of undergrowth and ivy etc yet on the other hand the trees remain in a deteriorating condition in need of care. Is this care and new growth only going to occur if the appeal is successful. Would the plot be allowed to become more overgrown and unmanaged requiring more trees to be felled if the appeal is refused.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

The objectors state that the lack of care and maintenance of the site by the appellants has been a very deliberate part of a very long-term plan to build a house on the site.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

8. Our Conclusions on the Planning Appeal Statement

Objectors state that as the appellants have never been able to build on the plot, they have never really been interested in caring for the site as it should be and could be cared for. They have only been interested in the site when/if they could build a property on it. Locals want to maintain the site and the trees within it.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.

9. Objectors proposals for the site at 2 Johnshill, East End, Lochwinnoch.

It is stated that the community would like to care for this site and return it to a woodland garden. We as a community would approach Renfrewshire Council to ask about a Community Asset Transfer (CAT), for the site to the rear, in a similar manner to the way the Local Community Development Trust (LCDT) have sought one for Lochhead Gardens. They would also make enquiries in relation to the lane known as 'Skipper's Path' and the area of land on its left-hand side which has remained vacant for a number of years. This could be brought back into beneficial garden use, improving the general environment of the area. This would fit with Scottish Government legislation of June 2018; 'Community right to buy abandoned, neglected, or detrimental land (ANDL). The current appeal site would be a central and strategic part of these proposals to completely regenerate this whole area of the East End part of the village of Lochwinnoch and provide a teaching resource for the community on nature, flora, and fauna. These ideas should be important to the LRB consideration of this appeal.

Response - The local community's intentions for the site were not raised in the objections to the application. This matter is relevant to the development plan in that had this matter been raised it would have been responded to within the Report of Handling in relation to the site's local development plan designation.

10. Final Conclusions to this Paper for the LRB and HCG, of Further Objections and representations in relation to this Planning Appeal.

The objectors state that this appeal has highlighted the very unkempt nature that this important piece of land is in which is harmful to the health and longevity of the trees. They state that should the appeal be dismissed they would propose to enter into negotiations with the appellants to acquire this plot.

Response - While it is considered that this matter was not before the appointed officer, it is the appointed officer's view that this new matter does not raise a requirement or an entitlement to have regard to the development plan or any other material consideration.