

**SUBMISSION TO THE LOCAL REVIEW
BODY OF ABERDEEN CITY COUNCIL**

**BURNSIDE POULTRY UNIT
LITTLE CLINTERTY
KINELLAR**

REF. No: 170395/DPP

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SUBMISSION TO THE LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

PROPOSED DEMOLITION OF REDUNDANT POULTRY BUILDING AND ASSOCIATED STRUCTURES AND ERECTION OF TWO DWELLING - HOUSES AT BURNSIDE POULTRY UNIT, LITTLE CLINTERTY, KINELLAR

REF. No: 170395/DPP

Introduction

An Application for detailed planning permission was submitted under Ref No 61777/DPP and was refused under delegated powers by the appointed officer Mr Robert Forbes.

In a subsequent Application, REF No: 170395/DPP, being the subject of this Submission to the Local Review Body, detailed planning permission was submitted for the demolition of a redundant poultry building, the demolition of the substantial remains of a previous poultry building and the removal of various slurry tanks and for the erection of two dwelling houses.

The second application was made under the “free go” procedure and was broadly similar to the original application. Some changes were made in the second application, mainly in regard to the size, design and siting of one of the proposed houses in order to address issues raised by the Delegated Officer in the Report of Handling of the first application.

In this Submission to the Local Review Body, the Applicant seeks a review of the decision to refuse planning permission.

A number of issues, including transport and sustainability were cited in the reasons for refusal however the Applicant feels that the central issue to be focussed upon before any others need be examined, is the principle of development at the Burnside site.

It is evident that the main reason for refusal was the Delegated Officer’s view that, notwithstanding a recent precedent in the approval of much larger development of four houses at the nearby Clinterty Mill, that the principle of development at Burnside should not be supported at Burnside.

The Applicant seeks to show the similarities between the Mill and Burnside sites in terms of location, setting, redundant nature of structures and remediation requirements. In considering these remarkable similarities, it is difficult, in the opinion of the Applicant and his planning advisors to reconcile how the Mill application met with approval but the

Burnside application was refused and now respectfully requests that the Local Review Body review the Application having regard to the reasons set out below.

History of the Site

The Applicant Mr Graham Buchan, operated Burnside Poultry Unit as a commercial poultry farm, producing hatching eggs and replacement layer chickens. At the time of the Applicant's entry to the Holding in 1984, only one of the original three poultry buildings remained, the other two having been partially demolished.

Due to the relatively small scale nature of the poultry rearing enterprise at Burnside coupled with the need for extensive repairs and refurbishment to the Poultry Building, poultry production ceased around 1996. The internal equipment necessary for the production of poultry was coming to the end of its useful life and as such, replacement could not be economically justified. The most significant expense would have been the replacement of the asbestos cement covered roof which even by then was in a very poor condition. The extent of water penetration through the cracked and delayered roof sheets made the use of electrical equipment dangerous. The Poultry Building has been redundant since that time.

In the intervening period, the asbestos covered roof of the remaining poultry building has deteriorated significantly and the roof structure itself is now visibly sagging in places due to water ingress to the structural timbers.

In addition to the existing redundant poultry building there is also located at the north east corner of the site, the remains of the concrete block walls of a partially demolished second poultry building.

At the north-west corner of the site are remains of the concrete floor and footings of a third poultry building. A hard standing area comprised of rubble and stones interspaced with concrete built slurry tanks makes up a large area of land to the west of the existing poultry building.

Initial Enquires Regarding Planning Permission

The Applicant initially sought advice from Mr Kristian Smith of the Council's planning department when he became aware of a grant of planning permission for four dwelling houses at the nearby site at the Mill, Clinterty. (Ref P141627)

Subsequent communications took place between the Applicant's agents Annie Kenyon Architects (AKA) and Mr Smith, where it was established that the Applicant proposed to

seek planning approval for the Burnside site on the basis of enabling development of the derelict parts of the site, similar to that at Clinterty Mill.

The Applicant was familiar with the Clinterty Mill site as it was used for poultry production around the same time as the Burnside poultry enterprise was in operation and indeed, there were significant similarities between the two sites.

Both sites were in the Green Belt, both were in a dilapidated state of repair and redundant of their former use.

Although located in the Green Belt and the Green Space Network, the site at Clinterty Mill had been approved, the justification for a departure from NE 2 (Green Belt) Policy given in the Report of Handling being using the principle of “enabling development” to cross - fund the remediation of that site. The Applicant considered that the Council would be favourably disposed to a granting similar approval for the Burnside site given the marked similarities to the Mill and precedent for departing from Green Belt Policy (NE2).

Delegated Officer’s Reasons for Refusal

“Green Belt Policy: The site is not identified as an opportunity site for development or a site identified for housing development within with the Adopted Local Development Plan. It lies in open countryside within the green belt and outwith any established settlement. The proposal therefore conflicts with the Strategic Development Plan (SDP) which directs development to identified housing sites or existing settlements and identifies the need for a green belt in order to direct housing pressure elsewhere. Erection of mainstream housing at the site would conflict with NE2 (green belt) policy. No adequate justification for approval of the development contrary to the development plan is considered to exist. The development would result in suburban intrusion into open countryside contrary to the landscape protection objectives of policies D2 (Landscape), and NE2 (Green Belt).”

“The four houses which were approved at the Mill site were set within a wooded landscape context which is significantly different from that which exists at the application site, which is more open and visible from adjacent public roads and therefore potentially more visually intrusive.”

It is accepted the proposal does not comply with Policy NE2, however there are strong reasons which would support departing from the policy in relation to the two proposed house plots and to apply the principle of “enabling development” and to grant approval

for the remediation of the brownfield areas within the site. This is particularly significant in light of the precedent set by the approval of the similar development at Clinterty Mill (Ref 141627)

The Burnside Report of Handling states under the heading, *Development Principle*,

“ it is accepted that the remaining building on the site is in a poor structural condition and the site has remediation constraints”.

The Officer then expresses the view that the supporting feasibility report and planning statement do not have sufficient weight to justify approval contrary to green belt policy.

The Applicant feels that the array of Reports submitted had not been properly considered nor given sufficient weight by the Delegated Officer nor is it apparent that the roof refurbishment costs given in the SG Cladding Quote were given any meaningful consideration.

Asbestos Report 2007 (Ethos Environmental)
Quotation for Re-roofing Existing Shed 2017 (SG Cladding)
Feasibility Study (Walter Michie Poultry Consultant)

The Ethos Report (2007) highlights that in 2007, 50% of the asbestos cement roofing sheets of the existing poultry building were cracked and de-layering. The Report also identified that the remainder of the asbestos sheets were in a poor condition.

In the intervening ten years, it is reasonable to assume that further deterioration in the condition of the roofing sheets has continued, allowing water ingress to the structural timbers.

Mr Robert Forbes, the Delegated Officer expressed the opinion in a meeting with the Applicant and his Agents on 13th February 2017 that the Poultry Building could be *“ easily repaired “* and indeed Mr Forbes appeared to hold the view that the structure could be economically refurbished.

At the same meeting, Mr Forbes also expressed the opinion that there was a difference between the Clinterty Mill site and the Burnside site in that Clinterty Mill was comprised of *“ hard standing”* and redundant buildings, inferring that the Burnside site was not.

The Planning Officer’s views, both in regard to the economics of repairing the roof and to the nature of the proposed house sites at Burnside are strongly contested.

Quotation for Re-roofing Existing Shed 2017 (SG Cladding)

After the meeting with Mr Forbes and in order to determine the costs of removing and disposing of the existing degraded asbestos roofing sheets and to re-roof the building, the Applicant approached a local specialist roofing company SG Cladding, to seek a price quote for the work.

The Company subsequently tendered a quote of **£50,733** for a single skin roof covering or alternatively, if “composite roof” panels was used, the price would be **£59,296**.

This quote was lodged along with other supporting documentation which was submitted to the Council as part of the revised second Planning Application.

It is the clearly stated view of the Delegated Officer in the Report of Handling that, not only the poultry building, but the whole site is too small to be viable as an agricultural unit.

Even if it was accepted that it would make economic sense to spend nearly £60,000 on the refurbishment the poultry building roof, the Applicant contends that a far greater sum would need to be expended in fitting out the interior with equipment such as poultry feeders, watering systems, ventilation and a propane gas brooder system for raising day old chicks.

There is no dispute that the site is not economically viable for agriculture, and it is also entirely reasonable to question the Officer’s bare assumption that the poultry building could be easily repaired taking into consideration the costs quoted. It is submitted that this redundant and derelict site, the main building of which continues to decay will fall into a greater degree of ruin.

The Applicant also disagrees with the distinction made by Mr Forbes between the nature of the land surfaces of the two proposed house sites.

It is agreed that the Mill site for which four houses have been approved consists mainly of “*hard standing*”, however the plans submitted by the agents for the Applicant clearly show that at Burnside, there would be no loss areas of land currently used for grazing.

Both of the proposed house plots at Burnside would be located on brownfield land, the houses being built directly over the footprint of redundant poultry buildings.

As at the Mill development, the house plots would be reclaimed from previously used brownfield land.

Feasibility Report (Walter Michie Poultry Consultant)

This report concludes that Burnside Poultry Unit is not commercially viable due to its small size and owing to disproportionate refurbishment costs required to the poultry building. It is the Applicant's view that the Officer did not give sufficient or adequate weight to this Report.

Notwithstanding the Planning Officer's verbally stated view that the Poultry Building could be easily repaired, it has been demonstrated by the Michie Report, the Ethos Report of 2007 and the Price Quote from SG Cladding that there exists no economic or sustainable grounds which would justify the costs of remediation of a Poultry Building which is not capable of modern poultry production.

The Applicant would respectfully contend that the Delegated Officer's dismissal of the well reasoned Reports and apparent failure to give any weight to the Roofing Price Quote appear to be remiss.

Comparison - Clinterty Mill and Burnside Poultry Unit

Location, Topography and Surrounding Houses, Burnside

The Officer contends that, in contrast to the Clinterty Mill application, the Burnside site sits in open countryside, however although the Burnside site is visible from a small section of Clinterty Road from the North, it would be clear to anyone visiting Burnside, that this site sits in a sheltered valley.

Burnside is not visible to car drivers or pedestrians from the A96, whether approaching from the roundabout to the west of Blackburn or approaching from the east from the brow of the hill at Kirkhill Forest, the site being almost completely screened by trees, bunds and by the topography of the area.

The Burnside site is low lying and the profile of the proposed dwellings will not be seen on the skyline from any vantage point.

The chosen roofing materials will reproduce the effect of the agricultural roofing materials of the current and the two previous poultry buildings

Additionally, native trees were planted by the Applicant five years ago and are now at a height of approximately fifteen feet and these will continue to grow to maturity and will provide an effective visual screen for Plot One. Two large mature trees are located on the eastern boundary near Plot Two and in addition there is an established row of native hedges located on the farm track to the north of the site and, taken together form a screen which effectively breaks up the outline of the proposed house at Plot 2. The plans submitted with the Application show that the existing native tree belt at Plot One

would be extended along the whole north boundary of the site, screening both proposed dwellings.

A further objection from the Delegated Officer states that the site is out with any settlement, however no mention is made of the fact that there is a cluster of four dwellings adjacent to Burnside and a further two dwellings located a short distance from the site.

Location, Topography and Surrounding Houses, The Mill

In stark contrast, the Mill application having strikingly similar characteristics to Burnside in regard to setting in the landscape was approved.

The Burnside Delegated Report states:

*“The four houses which were approved at the Mill site were set within a **wooded landscape context** which is significantly different from that which exists at the application site, which is more open and visible from adjacent public roads and therefore potentially more visually intrusive.”*

It is agreed that the four approved houses at the Mill will be partially screened from the B979 by existing trees, however at the time of approval of the Mill development, any member of the public walking or driving along that stretch of public road could have viewed large segments of the existing Mill buildings and parts of the site. The wooded setting referred to consists of, at the very most two or three rows of well spaced trees through which the existing Mill buildings are clearly visible.

On 17th October 2017 a few days leading up to the lodging of this Submission, the Applicant observed that a number of the trees located on the adjoining land to the south of the Mill site had been removed. The Mill site is considerably more open and almost the whole site can now be viewed from the B979.

It is clear that even with the existing screening afforded by the remaining trees that the increased massing of the new housing development will be largely visible from the public road.

Inconsistencies in Site Evaluations and Outcomes

The Delegated Report for the Mill states under the heading of *Proposal*:

“The site is relatively flat and largely enclosed by a post and wire fence or drystone dyke, with mature trees providing an effective screen from immediate and longer viewpoints , although there is a relatively open outlook to the north. To the east is Millfield House, the applicant’s home and Cressbrook, with a number of other properties beyond. To the west there are other residences, largely accessed off and a short distance from the B976”

In the Delegated Report for Burnside, one of the justifications for refusal states, the site:

.... “ lies in open countryside within the green belt and out with any established settlement. The proposal therefore conflicts with the Strategic Development Plan (SDP)”

Yet The Mill Delegated Report describes that site thus:

“there is a relatively open outlook to the” north”

The Mill proposals for four very large dwellings on a site with an open outlook to the north and also partially visible from the public road found approval but inexplicably, the Burnside proposals for only two houses with a similarly open outlook to the north and only partially visible from the public road was refused.

Notwithstanding the comments of the Delegated Officer in the Burnside Delegated Report in seeking to ascribe an altogether distinctive woodland setting for the Mill when compared to Burnside, the literal facts on the ground demonstrate that, in reality there is very little in the way of woodland setting at the Mill, and even less now that trees on adjacent land have been removed. Furthermore, the openness of the Mill site to the north is remarkably similar to that at Burnside.

In the context of the Mill site, there could not be nor can there be in the future the possibility of the imposition of planning conditions to protect existing trees owing to the fact that none of the “*woodland setting*” relied upon as a justification by the Delegated Officer for approving is under the control of the owners of the Mill site.

It is suggested that it would relatively simple and straightforward for the Council in relation to approving the Burnside proposals to attach conditions regarding the retention and protection of existing trees and any other trees that are to be planted when the proposed development is completed, as the relevant land is in the ownership of the Applicant.

It is also notable there is one less policy to have to depart from in that, whilst the Mill site is located within the Green Space Network the Burnside site is not.

Much weight was put by the Delegated Officer on the opinion that, at the Burnside site, the proposed two houses would not be connected to any existing settlement and therefore refusal should follow. There is no acknowledgement of the fact that a hamlet consisting of six dwelling-houses is sited close to Burnside.

To the eastern boundary of Burnside, two houses, Broombank Cottage and Elysium are immediately adjacent, whilst on the east side of Clinterty Road are a further two houses, Viewfield and the Gables. Slightly further along Clinterty Road are Chough Cottage and Woodside. Services such as water and electricity are already available at Burnside.

On any reading of the Mill Delegated Report, one cannot help but be struck by the extensive justification given for approval, citing as a supporting element, the existence of established housing nearby:

“The existing context must be considered in the round, and it is for the Planning Authority to determine whether it would be appropriate to direct development to this location, as being ‘the right place’. In this respect, although it is not within or adjacent to an identified existing settlement, there are a number of residential properties within close proximity, and services to these properties are already in place.”

When comparing the two sites, The Mill and Burnside, it is difficult to comprehend how, on the one hand the Council, whilst acknowledging the competing planning policies including Green Belt and the sustainable re-use of brownfield, have decided that in relation to the Mill, the Green Belt Policy and the Green Space Network can be departed from, but Burnside, given strikingly similar considerations, the decision was one of refusal.

Mr Forbes at the meeting on 13th February 2017 expressed the opinion to the Applicant that there was a difference between the Clinterty Mill site and the Burnside site, saying that Clinterty Mill was comprised of “*hard standing*” and redundant buildings, inferring that the Burnside site was not.

The Delegated Officer’s view is strongly contested. Although both proposed house plots at Burnside are surrounded by grazing land, the proposed house plots themselves are to be located on brownfield land and directly over the footprint of redundant structures.

Plot One would be located on the footprint of a very large former poultry building, of which the concrete walls form a visible and degraded part of the site. A small area of land to the south of Plot One would be used for a garden area, however, a similar sized area of land to the west of Plot One which contains the concrete wall of the former poultry house would be remediated and returned to grazing land, therefore there would be no net loss of grazing land overall.

In regard to Plot Two, the proposed dwelling house would be located over the footprint of the existing redundant and degraded Poultry Building. Any related garden ground would be reclaimed from the areas containing hard standing to the East of and to the West sides of the proposed house, an area which is currently comprised of rubble and an assortment of slurry tanks and soakaways which are remnants of the previous use as a poultry farm.

Financial Costings Appraisal (WSD Scotland) - Burnside

The Applicant's architects, Annie Kenyon, having also been agents for the Clinterty Mill project, submitted a fully costed Financial Costings Appraisal in support of the Mill application.

It is recorded in the Report of Handling for the Mill that the Financial Appraisal was "*scrutinised by ACC's Land and Property Assets Team, who are satisfied with the case made*".

Significantly, although AKA submitted a similar Financial Costings Appraisal prepared by WSD Scotland in support of the Burnside application, there is no evidence that this was in turn submitted to the Land and Property Assets Team for their scrutiny. Indeed there is no indication the WSD Appraisal was even studied or given any weight, certainly it's appraisal was not referred to in the Report of Handling.

The Mill application was afforded the scrutiny and evaluation of a Financial Costings Appraisal and this quite correctly bolstered the case for approval, however when it came to the Burnside process, there is no evidence of such scrutiny and evaluation being afforded to the Applicant.

This is but one a number of stark differences in which the Mill application and the Burnside application was viewed and processed.

Contamination Issues

The aspect of the degree of contamination and, whether such contamination immediately presents a risk to human health can be said to be a very narrow view of the redundant and derelict nature of the site and desirability of re-using a brownfield site.

The existing poultry building continues to deteriorate to the extent that the roof structure is visibly sagging.

It is argued that the Applicant wished to be pro-active and not simply delay and wait for the roof structure of the poultry building to collapse and thereby incur greater costs in cleaning up the site.

The Delegated Officer focused on his view that “ *the costs associated with the maintenance/repair of the shed roof are not so exceptional to justify approval of housing.*”

The Michie Report, the Ethos Asbestos Report of 2007 and the SG Cladding Report, taken together support the Applicant’s view that there is no realistic possibility of the site being returned to poultry production and clearly shows that it is neither a sustainable or economic option.

The Applicant believes that overall, a particularly restricted view has been taken by the Delegated Officer in weighing the facts of the Burnside application when compared to the justifications given by the Council when approving the Mill application.

Appraisal of Extent of Structural Damage/Redundancy - The Mill

Nowhere in the Mill application are there independent documented reports which would confirm the redundant nature of the buildings in terms of agricultural use or indeed any report or qualified survey which details the extent of dereliction or structural damage on that site. Nor had the Council sought confirmation, instead, there appears an uncorroborated statement in the Description of the Report of Handling:

“Currently it contains a number of large and dilapidated former agricultural and mill buildings, of utilitarian form and no particular architectural merit. It is indicated, although largely self evident, that these buildings are no longer structurally stable and in relatively urgent need of demolition.”

Sustainability/ Re- Use of Brownfield Sites in the Mill Application - Relevance to Burnside

The Mill (under) Planning Policy

“The spatial strategy of the LDP recognises the benefit of redeveloping previously used sites and that these make a huge contribution to the overall sustainability aims and recognises that the city needs to expand beyond its existing edges to address the various drivers to support growth (para. 2.3).

Burnside

The proposed house plots at Burnside are previously used sites and redevelopment of such redundant and deteriorating structures can readily be described as sustainable.

In the Section titled *Reasons for Recommendation* in the Mill Report of Handling it states:

“With particular reference to ‘Brownfield Sites’ it notes that redevelopment is important in regeneration, removing local eyesores, bringing land back into effective use. There can be difficulties in site preparation, but generally such development is inherently sustainable – such as recycling land and helping to maintain local services (para. 2.13). Although it is noted that there is no discussion of brownfield sites within the greenbelt.”

Burnside

There is no doubt that the proposed house sites at Burnside falls into the category of an eyesore in their current state and the Applicant’s proposal to bring the land back into effective use resonates with the spirit of the above clause.

The Mill

“The site lies within both the identified green belt and green space network, as designated in the LDP. In this regard site specific policies NE1 (Green Space Network) and NE2 (Green Belt) relate.”

Burnside

The Burnside site is located within the Green Belt but is out with the Green Space Network therefore there is less of a tension between different policies.

The Mill (under) Other Relevant Material Considerations

“It is important to consider the current site context and its negative impact on the value of the Green Belt. It is also appropriate to give considerations to options which would see viable alternative sustainable development facilitate/ enable addressing the impacts of the current site characteristics.”

Burnside

The already derelict nature of the proposed house at Plot 1, the continuing structural deterioration of the Poultry Building along with the array of concrete footings and slurry tanks to the west of the site certainly have a negative impact on the Green Belt. It is contended that the proposal to replace these structures is indeed a viable alternative which is not only sustainable in the long term, but puts to good use previously used land that could not otherwise be economically brought back into a state befitting the locality.

The Mill (under) Evaluation

“In relation to the green belt location it is considered that, although the LDP policy context does not directly permit such development, that directing economically viable and sustainable development to this degraded site, which has a negative impact on amenity and the overall value of this part of the green belt, is appropriate and would enable and support its positive regeneration (Para 49).”

Burnside

Just as in the Mill application, approving the proposed Burnside development would enable and support its positive regeneration. The alternative is to allow the existing poultry building to degenerate further and fall into a greater state of structural decay and to simply abandon the other parts of the site which are blighted with large areas of derelict concrete walls and slurry tanks. Without the enabling of redevelopment and the cross funding generated thereby, the affected areas of the site cannot be effectively and appropriately utilised.

Mill (under) Aberdeen City and Shire Structure Plan

“The city of Aberdeen has ambitious growth plans and the delivery of housing is a core tenet of the strategy. The main route of delivering housing numbers is via significant land releases, much of which is on formerly undeveloped green belt land. However, the value of ‘windfall’ brownfield sites cannot be discounted and subject to such sites being considered appropriate places, and not degrading or reducing the protection of high value locations, should be supported.”

Burnside

The two proposed houses would undoubtedly be regarded as “windfall” sites through re-use of degraded and unused land.

The Delegated Officer in the Report of Handling states that in terms of Design of the proposed houses at Burnside:

“It is considered that the proposed house designs are in themselves of high quality and contain features of rural character. It is considered that the finishing materials and appearance of the houses would be of an acceptable design quality in terms of the expectations of policy D1”

It is the Applicant’s view that, given the support afforded by the Council to the Mill application and, considering the almost identical factors in the history and current state of Burnside that the Council should support the remediation and redevelopment proposals submitted.

The high quality of the proposed houses which has been recognised by the Delegated Officer would transform and enhance what are redundant and derelict brownfield sites within the Greenbelt.

Precedent - Refusal of Planning Permission 2003

The Delegated Officer cites precedent as a contributory factor to refuse planning permission at Burnside. Planning Permission for a dwelling house at Little Clinterty Farm was refused in 2003. The context in which that decision was arrived at however was manifestly unlike the Burnside application in that the proposed site comprised of prime agricultural land which was at the time of application in active agricultural use, being part of a working farm. That site is located immediately adjacent to the public Clinterty Road whilst the Burnside site is accessed by the privately owned farm road which itself is set well back from the public road.

No part of the proposed site could have been described as brownfield nor did it contain redundant, dilapidated or decaying structures as is evident at the two proposed house sites at Burnside, indeed the two sites are entirely dissimilar.

It is therefore submitted that the 2003 application for a house at Little Clinterty Farm, not being faintly comparable should not be regarded as a suitable point of reference in the determination of the Burnside application.

Sustainable Transport

Among issues raised by the Delegated Officer in justifying his recommendation for refusal were matters related to transport and sustainability. Although the principle of allowing enabling development at Burnside is at the heart of this Submission, where subsidiary competing policies such as sustainable transport do arise in the evaluation of the proposed development, the requirements of such competing policies can be justifiably relaxed or departed from in the context of encouraging the re-use of brownfield sites. Long term sustainability can also be demonstrated by the re-use of existing private road accesses and services, something that is unquestionably evident in Burnside proposal.

It is accepted by the Applicant that the transport provision in relation to the two proposed dwellings at Burnside will be largely car dependant. Given the previous use of the site as a working poultry farm which generated daily vehicular traffic of staff and the arrival and departure of large bulk feed and gas delivery lorries to the site to three very large poultry buildings, it is clear that any vehicular traffic will not see an increase and would consist largely of traffic on a domestic scale.

The opening of the Aberdeen Western Peripheral Route will have a significant effect in curtailing the use of Clinterty Road as a “rat-run” and it is anticipated that the volume of traffic will reduce dramatically making that road much more suitable for walking and cycling.

Comparisons can be made between the Clinterty Mill application which, although had transport issues to be reconciled, nevertheless found favour when taken in the round. The Mill development consisting of four houses is situated approximately 1.5 km from the junction of the A96 but interestingly, Burnside is only approximately 1 km away from the A96.

The B979 connecting the Mill development to the A96 is a tortuous winding road with at least five sharp bends. In many places the road has no verge having been worn away, leaving quite steep drops to the low lying areas of the forest floor. There are no footpaths anywhere along this road from the Mill site leading to the A96.

It cannot be said that, in terms of walking and cycling the B979 lends itself to the aims of connectivity and sustainable transport such as walking and cycling.

Pedestrians seeking to access bus services would need to walk from the Mill along a winding unlit road to reach the A96 in order to catch a bus travelling in the direction of Blackburn/Inverurie.

In order to catch a bus into Aberdeen, pedestrians walking from Clinterty Mill would need to negotiate crossing four lanes of the busy A96 where there are no pedestrian crossings or traffic islands.

Although the Mill development does not lend itself to readily safe and accessible public transport, the Council decided to approach the determination of the application "in the round" and reasoned that, despite these drawbacks that the regeneration of the Mill site was desirable and inherently sustainable and that these difficulties were not a barrier to approving the development.

Having considered the Council's rationale in approving the Clinterty Mill proposals, the Applicant and his agents were surprised and somewhat astonished at Delegated Officer's assessment in the Burnside Report of Handling in regard to sustainable transport:

"Although the site is located close to Blackburn, it lies in open countryside and is poorly connected to urban areas by sustainable transport means. Occupants would be required to walk about 1km along an unlit country and with no footways to access facilities at Blackburn. There is no bus service on the adjacent public road and no convenient / safe pedestrian crossing on the A96. Public transport would not be available within 400m of the site, in conflict with the Council's guidance regarding transport. Although alternative access is available via a farm track, outwith the site, this is unsurfaced and unlit and is not under the applicant's control. Although the site is claimed to be located within cycling distance of Dyce, Westhill and Kingswells, the intervening topography and high level / speed of vehicle traffic is likely to discourage cycling. Accordingly it is considered that the development would be unduly car dependent, and would therefore conflict with the objectives of policies T2 and T3 and with the SDP objective of reducing the need to travel."

As mentioned above the Applicant accepts some limitations in regard to pedestrian access at Burnside, however it is clear that the Delegated Officer appears to have been distinctly selective in compiling the facts in regard to this. Some parts of the above statement on any reading, fail to highlight fully the sustainable transport options which are in fact available from Burnside.

It is agreed that there would be a total walk of about 1 km from Burnside in order to access a bus service on the A96, however the Clinterty Road is very straight right up to the junction at Roadside Steadings.

Compared to a 1.5 km walk from the Mill along the B979 which is tortuous and contains a number of blind bends, the Burnside route is in any analysis much safer. As mentioned above, the opening of the AWPR will certainly see a huge reduction of vehicular traffic on Clinterty Road.

In order to catch a bus, a pedestrian need only walk 50 meters from where the Roadside Steading junction meets the old A96 to join a paved and lit walkway which runs from Roadside Cottage to the Clinterty Roundabout. There is a pedestrian traffic island at the Roundabout and from there a lit walkway into the village of Blackburn where a number of bus services run to Inverurie to the west and into Aberdeen.

For pedestrians or cyclists, access can also be taken along the 90 meter west arm of the farm road at Burnside leading to Little Clinterty Farm where there is a signed public footpath which also leads to the Clinterty Roundabout traffic island. The public footpath through Little Clinterty Farm is regularly used by the applicant and his family and also by local people and was constructed and is maintained by the landowner through public funding.

It is also noteworthy that the existence of this public footpath allowing pedestrian and cycle connectivity from Blackburn to Westhill will enable wider recreational opportunities in the countryside for residents of the proposed houses at Burnside.

Completely absent from the Officer's assessment of sustainable transport options were references to the underpass located at Bishopton Farm just under 1km from Burnside.

Not only is the underpass only a short walk away from the proposed dwellings at Burnside, it is also lit and has a separate footpath which leads to an official Inverurie to Aberdeen bus stop on the A96.

Pedestrians wishing to travel in the direction of Blackburn and Inverurie may access the official bus stop by way of a lit pedestrian pathway also at Bishopton Farm.

Users of bus services, whether travelling into Aberdeen or to Blackburn / Inverurie, would have no need to venture onto the A96 unlike the situation which prevails at the Mill Development where pedestrians will need to venture onto and cross four lanes of traffic in order to reach a bus stop to travel into Aberdeen.

The approval of the Mill application, notwithstanding a greater distance from the A96, a considerably tortuous B979 as the main access road and a complete absence of footpaths and underpass, demonstrates a precedent to depart from some policies when there is justification to do so.

The Applicant believes that the transport issues which have been partly relied upon by the Delegated Officer to justify refusal of the Burnside application do not present insurmountable difficulties.

This is particularly so when contrasting the even greater latitude shown by the Council in allowing the Mill to be approved.

It is submitted that any negative aspects of sustainable transport can be reconciled in the wider context of the regeneration and sustainability in bringing a redundant and brownfield site back into use as exemplified in the determination of the Mill application.

Sustainability and Re-use of Materials

The Applicant disagrees with the comments in the Burnside Report of Handling that the re-use of materials was not addressed in the Application as this was referred to in the demolition price quote provided by Morris Senior, Demolition Contractors. The specification includes for the crushing of all inert materials such as stone, concrete walling and floor pads and for them to be stored on site for use on the development.

Similarly, all wood waste was to be transported for chipping and subsequent re-use off-site. It is suggested that sustainable re-use of materials could easily be covered by planning conditions imposed by the Council.

Trees

The comments regarding the lack of references to the treatment of existing trees can, it is suggested be addressed by planning conditions, although it is drawn to the attention of the Local Review Body that extensive reference is made to the removal of a small number of *Lleylandii* and one self-seeded tree at Plot 1 in the detailed site plans submitted prepared by AKA on behalf of the Applicant. The preservation of the newly planted native tree belt and its extension along the entire north boundary of the site is also shown on the plans.

The Delegated Officer put great emphasis on his view the Burnside site should not be seen in the same light as the Mill because the Mill was located in a “wooded setting”. No doubt there are existing stands of trees adjacent to the Mill site, however all of those trees are located on land out with the Mill owner’s ownership or control.

The Mill Delegated Report quite clearly states that there “*are no notable trees*” on the site.

Whilst the Applicant indicated in the detailed plans submitted for Burnside that the majority of trees would be retained and new tree lines planted, it is clear that planning conditions could realistically be attached to protect those trees

Conversely there never could be any assurance that, in the Mill setting existing trees could be protected. Indeed it would have been impossible for the Council to attach conditions which would ensure the visual screening of the four houses at the Mill given that the majority, if not all the trees are on the property of adjacent owners.

The fact that a number of trees located on adjacent land to the south of the Mill site have very recently been cut down as highlighted elsewhere in this Submission illustrates this point.

Connection to Public Sewer v Septic Tank

In the section of the Burnside Delegated Report under the heading “ Sustainability”, it states:

“The absence of potential connection to the public sewer and proposed private sewerage arrangements are considered to be an inherently less sustainable solution than directing housing to existing settlements where such infrastructure and other facilities are available.”

The position taken by the Delegated Officer is surprising given that the proposals for sewage disposal is on “all fours” when compared to the identical private sewerage arrangements that will be necessary for the four houses approved for the Mill development.

The Applicant is very familiar with the area of housing around the Mill and there exists no public sewerage system serving the settlement of houses in its vicinity.

Although the Delegate Report for the Mill states:

“that the development would provide additional housing numbers and choice within Aberdeen City; and that it is not in itself isolated with suitable public services (water, sewerage, power, etc.) available to which the development could connect.”

There in fact exists no such public sewerage system in the area around the Mill site, all houses having septic tank systems and related soakaways.

It is argued that the required drainage reports submitted with the Burnside application show that there would be satisfactory ground conditions for the installation of a private septic tank arrangement for each of the proposed houses and indeed there were no objections raised on that point.

In light of the foregoing and having regard to the approval of the much larger development of four houses at the Mill, where similar private septic tank arrangements will need to be used, it is suggested that the proposals for the use of private sewerage treatment is an acceptable and practical option for the proposed houses at Burnside.

Other Matters Raised - Impact on Nearby Houses

The Delegated Report concluded that notwithstanding objections from neighbouring occupiers “ *that the proposed houses would be sufficiently distant from existing houses that would not be impact on residential amenity.*”

Community Council

The objection received from the Community Council appears to have been made on erroneous grounds where they proceed on the belief that the precedent of the Clinterty Mill approval should not be relied upon. The Community Council appear to believe that the Clinterty Mill development consists of the restoration of an historic mill, however this is not the case. The Clinterty Mill development was approved on the basis of the demolition of the existing buildings and the construction of four large houses.

Roads/Public Safety

The farm road access to the proposed house sites at Burnside is quite straight with little in the way undulations and only requires bringing up to a suitable standard by resurfacing with granite metaling or “chuckies” as is common for such private ways in the locality.

It is stated in the Report of Handling that :

“ the Council’s Road Officers have no objection to the proposal on road safety grounds and consider the access arrangements to be satisfactory.They consider that the proposal will not result in the creation / intensification of a public road safety hazard due to the conflict between traffic exiting / entering the junction with the public road and existing road users”

Conclusions

The Delegated Officer responsible for the Clinterty Mill application, throughout the Report of Handling provided extensive reasons and justifications for the approval of that proposed development.The tenor of the comments appear to be entirely supportive of the applicants desire to bring about a transformation of a redundant site.

The Applicant and his agents were to say the very least, taken aback at the response to the Burnside application. Notwithstanding exceptionally similar characteristics, completely opposite and inconsistent reasons were given as to why the the proposals should not benefit from a similar approach in assessment and determination against almost identical planning issues to those of the Mill.

Included in *Reasons for Recommendation*, the Delegated Report for the Mill states:

“Additionally there are material considerations which further allow the development to be regarded as being acceptable. These are that: there is no reasonable prospect that development compliant with the provisions of Policy NE2 would be sufficiently economically viable such that the regeneration of this degraded and derelict brown field site could be financed, without significant financial losses; that the development would provide additional housing numbers and choice within Aberdeen City; and that it is not in itself isolated with suitable public services (water, sewerage, power, etc.) available to which the development could connect.”

The above justification given in support of the Mill development, could on any fair and equitable examination be objectively applied to the Applicant's development proposals for Burnside.

There is indeed no reasonable prospect that a development which would comply with the provisions of Green Belt Policy NE2 would be sufficiently economically viable so as to provide funding for the remediation of the Burnside site.

Although the Delegated Officer states in the Burnside Report of Handling that no other type of development was suggested by the Applicant which would be acceptable in the countryside, it is evident, based on the supporting reports submitted with the application that no such options exist and that the regeneration of this degraded and derelict brownfield site can only realistically be financed by the development of housing.

It is argued that, given the Council having readily accepted that no alternative development fully compliant with Policy NE2 which could deliver regeneration was available in the context of the Mill application, that it would therefore be unequitable to set the bar at a higher standard for the Burnside proposals.

The Council accepted the case for the redevelopment of the Mill site based largely it appears on visual evidence and informal concession of the appointed officer in regard to the derelict and contaminated nature of that site.

By contrast, with Burnside, it is contended that the vast array of professionally prepared reports reinforce the common - sense view that there exists no other economically viable option by which the site can be remediated except by cross -funding by the development of the two houses.

The predominant aspect of this application and central to its determination is the principle of development at this particular location.

The Delegated Officer sought to differentiate the Burnside site from the approved Mill site by reference to the Mill site's "*wooded setting*" and the claim that the Mill was quite removed from open view on the landscape.

From the foregoing observations in this document, the Applicant believes he has shown quite clearly that fundamentally, there are no substantial differences in the setting of the two sites and, as the Council have granted approval for a much larger development of

four houses at the Mill, it would be equitable in all the circumstances to follow this precedent and approve the application for two houses at Burnside.

The Applicant submits that, in the foregoing material, he has shown that, in respect of tensions between conflicting/competing planning policies which were raised by the Delegated Officer, such policies can be justifiably departed from as exemplified in the grant of planning permission in the Clinterty Mill application.

The high quality of the proposed houses, confirmed in the opinion of the Delegated Officer and the windfall nature of an additional two dwellings whereby additional housing may be added to the area can, it is suggested be regarded as an infinitely sustainable option and bring back into use manifestly redundant and degraded brownfield sites.

It is respectfully submitted that the Local Review Body set aside the decision to refuse planning permission and to grant planning permission subject to any planning conditions as they may think suitable.

In view of the complexity of many of the issues and the amount of related supporting materials submitted, the Applicant requests a Hearing.