

# MORAY COUNCIL

## MINUTE OF MEETING OF THE MORAY LOCAL REVIEW BODY

31 MAY 2018

### COUNCIL CHAMBERS, ELGIN

#### **PRESENT**

Councillors D Gatt (Chair), D Bremner, G Cowie, A Patience and D Ross.

#### **APOLOGIES**

Apologies were intimated on behalf of Councillors M Macrae and M McLean

#### **IN ATTENDANCE**

The Senior Planning Officer (Development Planning and Facilitation) and Mrs E Gordon, Planning Officer, as Planning Advisers, Mr P Nevin, Senior Solicitor, as Legal Adviser, and Mrs T Sutherland, Committee Services Officer as Clerk to the Moray Local Review Body.

#### **1. DECLARATION OF GROUP DECISIONS AND MEMBERS INTERESTS**

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members' interests in respect of any item on the agenda.

#### **2. MINUTE OF THE MORAY LOCAL REVIEW BODY DATED 26 APRIL 2018**

The Minute of the Meeting of the Moray Local Review Body dated 26 April 2018 was submitted and approved.

#### **3. NEW CASES**

##### **(a) CASE NO LR205 – WARD 6 – ELGIN CITY NORTH - PLANNING APPLICATION 17/01775/APP: CONVERT PART OF BAR AREA INTO 3no FLATS AT THE GOLDEN PHEASANT, NORTH STREET, BISHOPMILL, ELGIN**

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that the proposal is contrary to the provisions of the Moray Local Development Plan 2015 (Policies H1, EP8, T2 & IMP1) for the following reasons:

1. The development would involve a significant intensification of the use of an existing access where visibility is severely restricted and the access lane is not wide enough to allow two vehicles to pass clear of the public road. This development will therefore fail to provide safe entry and exit to the site

contrary to policy T2 and H1 and would give rise to conditions detrimental to road safety which would undermine the amenity of the area contrary to policy IMP1.

2. The application has failed to demonstrate either that the development would not be subject to significant pollution or that any noise pollution could be satisfactorily mitigated contrary to policies EP8 and IMP1.

A Summary of Information report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

With regard to the accompanied site inspection carried out on 28 May 2018, the Chair stated that all members of the Moray Local Review Body (MLRB) present were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.

During discussion surrounding the reasons for refusal of the application some members of the MLRB stated that in their opinion the proposal was not contrary to policies H1, EP8, T2 and IMP1 in terms of pollution and road safety.

In response, the Planning Adviser advised that the application had been refused in terms of policies T2 and H1 as the Transportation Service had reported that the development would result in intensification in usage of the existing access which was considered to be detrimental to road safety due to restricted visibility. With regard to policy EP8 in terms of noise pollution, as there was no noise impact assessment submitted with the application, it was refused on those grounds as it was unknown whether the noise from the adjoining bar would be of an acceptable level.

The MLRB, in noting the response from the Planning Adviser sought clarification as to whether they could grant planning permission subject to the provision of a satisfactory Noise Impact Assessment and reduction in the height of the wall to the right of the exit to achieve appropriate visibility splay lines.

In response to the query in relation to improving visibility by reducing the height of the wall to the right of the exit, the Planning Adviser advised that, even if the height of this wall could be reduced, the actual building was blocking the view to the left hand side resulting in decreased visibility to the left also.

The Chair then queried whether signage could be displayed stating that vehicles leaving the car park could only turn left.

In response the Legal Adviser advised against this course of action as the MLRB was at risk of granting planning permission subject to conditions that were possibly not achievable and suggested that the MLRB consider deferring the appeal to

request further information from the Applicant in relation to whether it was possible to reduce the height of the wall to improve visibility and whether a Noise Impact Assessment could be obtained although it was noted that this was expensive and would not guarantee planning permission. He further suggested that consideration be given to requesting further information from Transportation in relation the possibility of enforcing “no right turn” when exiting the car park.

Councillor Ross stated that, in his opinion, there were too many conditions and uncertainties in relation to this request for review and moved that the LRB refuse the appeal and uphold the decision of the Appointed Officer to refuse the application as it was contrary to policies H1, EP8, T2 and IMP1 of the Moray Local Development Plan 2015. This was seconded by Councillor Patience.

Thereafter the MLRB agreed to dismiss Case LR207 and uphold the original decision of the Appointed Officer to refuse planning permission in respect of planning application 17/01775/APP.

**(b) CASE NO LR206 – WARD 3 – BUCKIE – PLANNING APPLICATION  
18/00015/APP – ERECT TWO STOREY DWELLINGHOUSE WITH OFF-  
STREET PARKING ON PLOT 30 HIGHFIELD GARDENS, STEINBECK  
ROAD, BUCKIE**

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that the proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies H1 IMP1 and PP3) because the proposed design which has a ridge height of approximately 8.6m providing accommodation over two storeys would result in a dwelling which would be out of place with the scale and character of the existing streetscape (predominately single storey at this part of Steinbeck Road). On this basis, the proposed dwelling is of a design which would be detrimental to the character and appearance of the site and the existing properties located on this part of Steinbeck Road.

A Summary of Information report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

With regard to the accompanied site inspection carried out on 28 May 2018, the Chair stated that all members of the Moray Local Review Body (MLRB) present were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant’s grounds for review.

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.

Councillor Ross having had the opportunity to visit the site and consider the Applicant’s grounds for review stated that he did not agree with the reason for refusal

given by the Appointed Officer in terms of policies H1, IMP1 and PP3 of the Moray Local Development Plan 2015 which stated that the dwelling would be out of place with the scale with character of the existing streetscape due to its height. He further stated that when visiting the site he had noted that the nearby houses were predominantly, but not exclusively, single storey and moved that the appeal be upheld and planning permission granted as there were other two storey houses in the area. This was seconded by Councillor Cowie.

Councillor Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review agreed with the view of the Appointed Officer and stated that on visiting the site he had noted that most of the houses in the area were 1½ storey and was of the opinion that the design of the house could have been more sympathetic to the surrounding houses and therefore moved that the appeal be refused. On failing to find a seconder, his motion fell.

Thereafter, the MLRB agreed to uphold Case 206 and grant planning permission in respect of planning application 18/00015/APP.