

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 24 September 2020

Remote Locations via Video-Conference

PRESENT

Councillor George Alexander, Councillor David Bremner, Councillor Gordon Cowie, Councillor Donald Gatt, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor

APOLOGIES

Councillor Paula Coy, Councillor Ray McLean

IN ATTENDANCE

Ms Webster, Principal Planning Officer (Strategic Planning and Development) and Mr Henderson, Planning Officer as Planning Advisers, Mr Hoath, Senior Solicitor as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1 Chair

Councillor Bremner, being Depute Chair of the Moray Local Review Body, chaired the meeting.

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillor's Code of Conduct, Councillor Gatt declared an interest in Item 5 Case LR243 as he has had several meetings with the Applicant in relation to his application. Councillor Powell also declared an interest in Item 5 LR243 as the Applicant is a personal friend of the family. Both advised that they would take no part in the consideration of this case.

There were no other 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.

3 Minute of Meeting dated 27 August 2020

The minute of the meeting of the Moray Local Review Body dated 27 August 2020 was submitted and approved.

4 LR239 - Ward 7 - Elgin City North

Planning Application 20/00165/APP – Erect 800 mm fence on top of existing boundary wall at 1 Longwood Walk, 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 planning permission on the grounds that:

The proposal is contrary to the provisions of the adopted Moray Local Development Plan (MLDP) 2015 (Policies PP3, H4, IMP1 and T2) and should be refused for the following reasons:

- The fence is not of an appropriate scale for the existing site or surrounding area and therefore is contrary to policies H4 and IMP1.
- The fence would remove an existing public frontage to the dwellinghouse and therefore is not in accordance with the requirements of policy PP3.
- The fence would give rise to a reduction in inter-visibility between pedestrians, cyclists and vehicles which could give rise to issues regarding road safety and therefore is contrary to policies T2 and IMP1.

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

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, Mr Hoath advised that the Applicant had indicated on his Notice of Review application that he would like a site inspection, a hearing and further written submissions therefore asked the Moray Local Review Body (MLRB) to consider the Applicant's request for a further procedure.

Mr Henderson, Planning Adviser advised that the original planning application had been determined in accordance with the MLDP 2015 however as the MLDP 2020 had been adopted in July 2020, the application should now been determined in accordance with the new MLDP 2020. The relevant policies of are DP1 (Development Principles) and PP1 (Placemaking) however the wording of these policies does not differ greatly from the original wording in the MLDP 2015.

Councillor Ross, having considered the case in detail, was of the view that it was unfair to determine the planning application given that the MLRB had not conducted a site visit, especially as the Applicant had requested one. Whilst he appreciated that site visits had been temporarily suspended due to the COVID-19 pandemic, he moved that the MLRB defer case LR239 to allow an independent person from the Planning Service to visit the site to obtain further photographs so that the MLRB can make an informed decision.

There being no-one otherwise minded, the MLRB agreed to defer case LR239 to allow an independent person from the Planning Service to visit the site to obtain further photographs.

Councillors Gatt and Powell, having declared an interest in this item, took no part in its consideration.

Planning Application 19/01659/APP – Erection of visitor café on land adjacent to the Moray Coastal Path at Patrol Road, Portknockie

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in term of the Scheme of Delegation, to refuse planning permission on the grounds that:

The proposed café is contrary to Moray Local Development Plan (MLDP) 2020 policies DP6 and Portknockie OPP1 and Moray Local Development Plan 2015 policies ED4 and Portknockie I1 for the following reasons:-

- i. The proposal would introduce an incompatible use into an established business area and would create conflict with other existing uses.
- ii. The proposal fails to provide for a comprehensive scheme of improvement across the whole site and as such would fail to provide a development that would enhance the visual appearance of the site or the quality of the built environment.

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

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, the Legal Adviser highlighted that the Applicant, on his Notice of Review application, had requested that the Moray Local Review Body (MLRB) undertake a site visit and asked the MLRB to give this consideration when deciding if they had enough information to determine the case.

Ms Webster, Planning Adviser advised that since the original planning application had been determined, the MLDP 2020 plan had been formally adopted however the decision notice referenced both the MLDP 2015 plan and the MLDP 2020 plan, as the new plan carried significant weight at the time of determination. Ms Webster further pointed out an error on page 53 of the papers where the word "shed" should read "café". This was noted.

Councillor Ross, having considered the case in detail, moved that the MLRB defer consideration of the case to allow an independent person from the Planning Service to visit the site to take further photographs so that the MLRB can make an informed decision.

There being no-one otherwise minded, the MLRB agreed to defer case LR243 to allow an independent person from the Planning Service to visit the site to take further photographs for the MLRB to consider.

6 LR244 - Ward 5 - Heldon and Laich

Councillors Gatt and Powell re-joined the meeting at this juncture.

Planning Application 20/00614/APP – Retrospective application to erect a shed for business/office use at Shiva, 20 Shore Street, Lossiemouth, Moray

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 planning permission on the grounds that:

The proposed shed is contrary to Moray Local Development Plan (MLDP) (Modified Plan) 2020 policy DP1 (i) a) & e) and MLDP 2015 policy IMP1 for the following reasons:-

- i. The proposed shed on raised garden ground in a restricted site would be of an inappropriate scale due to its combined height, width and depth. As such this would result in a development that would be out of character with its immediate surroundings, and would have an overbearing and detrimental impact as it removed the majority of the remaining rear garden ground.
- ii. The proposed shed contains windows on both side elevations which would face directly onto the neighbouring properties to the immediate east and west of the site. These windows are located at head height and would therefore give a direct view into the neighbouring property gardens giving rise to an unacceptable loss of privacy and overbearing loss of amenity to neighbours and would also be contrary to the requirements of policy DP1 i) e), and IMP1.

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

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, Mr Henderson, Planning Adviser advised that, at the time of determination, the Planning Application had been considered against both the MLDP 2015 and the MLDP 2020 although the MLDP 2020 was formally adopted in July 2020.

The Legal Adviser advised that, on completion of his Notice of Review application, the Applicant had requested a hearing however no site visit was requested and asked the Moray Local Review Body (MLRB) to consider what further procedure, if any, they wished to request.

Councillor Ross, having considered the request for review thoroughly, moved that the MLRB defer consideration of this case to allow an independent person from the Planning Service to visit the site to obtain further photographs so that the MLRB can make an informed decision.

Councillor Gatt agreed with Councillor Ross however asked that the further pictures include the view from the windows facing east into the neighbouring property and photos looking onto the other neighbouring property.

Ms Webster, Planning Adviser advised that it would be beneficial to ask the Applicant to provide further information in relation to finished floor levels and existing ground levels, in addition to the height of the windows from the finished floor level, as the garden was sloped. This was agreed.

Councillor Taylor agreed with the points made by Councillors Ross and Gatt however moved that a hearing also be held as the Applicant had requested such. On failing to find a seconder, Councillor Taylor's motion fell.

There being no-one otherwise minded, the MLRB agreed to defer case LR244 to allow an independent person from the Planning Service to take further photographs of the site specifically from the windows facing east into the neighbouring property and photos looking onto the other neighbouring property and to request that the Applicant provide further information in relation to finished floor levels and existing ground levels, in addition to the height of the windows from the finished floor level.