

# **MORAY COUNCIL**

## **Minute of Meeting of the Moray Local Review Body**

**Thursday, 17 December 2020**

**remote locations via video-conference,**

### **PRESENT**

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

### **APOLOGIES**

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 (MLRB), 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 Bremner declared an interest in Item 9 Case LR247 and advised that he would take no part in the consideration of this case and sought the agreement of the Moray Local Review Body (MLRB) to pass the role of Chair to Councillor Taylor for that item. This was unanimously agreed.

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 29 October 2020**

The minute of the meeting of the Moray Local Review Body dated 29 October 2020 was submitted and approved.

#### **4 LR240 - Ward 5 - Heldon and Laich**

**Planning Application 20/00195/PPP – Erect dwellinghouse at site 500m South East of Wester Hillside, Mosstowie, Elgin, Moray**

Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 29 October 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to policies H7 and IMP1 of the Moray Local Plan 2015, the Housing in the Countryside Supplementary Guidance and the Guidance Note on Cumulative Build UP of New Houses in the Countryside for the following reasons:

- i. The proposal will further exacerbate already identified sequential visual effects of cumulative build up experienced when travelling along the minor roads in this location.
- ii. A new house in this location will contribute to further eroding the rural character of the area by adding to the prevalence of new housing and undermining the traditional settlement pattern.
- iii. The impact of new access roads, visibility splays and bin storage associated with new development will also further diminish the rural character of this area.

At the meeting of the MLRB on 29 October 2020, the MLRB agreed to defer case LR240 to allow the Appointed Officer the opportunity to determine the planning application in accordance with the policies in the new Moray Local Development Plan (MLDP) 2020, and thereafter, allow the Applicant to make further representation on the Appointed Officers findings.

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

Having received the further photographs of the site and information from both the Appointed Officer and the Applicant, the Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Following consideration, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00195/PPP as it is contrary to policies DP4 (Rural Housing) and DP1 (Development Principles) of the MLDP 2020.

**5 LR241 - Ward 1 - Speyside Glenlivet**

**Planning Application 20/00311/APP – Erect dwellinghouse at site at Convalley, Dufftown**

Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 29 October 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to policies H7 and IMP1 of the Moray Local Plan 2015, the Housing in the Countryside Supplementary Guidance and the Guidance Note on Cumulative Build UP of New Houses in the Countryside for the following reasons:

- i. The proposed development is contrary to Policy IMP1: Developer Requirements, Policy H7: New Housing in the Open Countryside and Policy E7: Areas of Great Landscape Value (AGLV) and Impacts upon the Wider Landscape of the adopted Moray Local Development Plan (2015) and, as a material consideration, associated Supplementary Guidance on Housing in the Countryside and Guidance Note on the Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside, for the following reasons:
  1. It does not reflect the traditional pattern of settlement in the locality and will be viewed as part of a grouping together with adjacent constructed and consented houses at Convalleys, detracting from the character of the surrounding area.
  2. It will contribute to a build-up of development where the number of houses will have the effect of changing the rural character of the area.
  3. It will contribute to a sequential visual effect of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site in terms of its siting particularly in relation to existing and consented houses at Convalleys and the designated rural grouping at Lettoch.
  4. It will have a significant adverse effect upon an Area of Great Landscape Value and the landscape character of the area as a result of this siting and build-up of development.

At the meeting of the MLRB on 29 October 2020, the MLRB agreed to defer case LR241 to allow the Appointed Officer the opportunity to determine the planning application in accordance with the policies in the new Moray Local Development Plan (MLDP) 2020, and thereafter, allow the Applicant to make further representation on the Appointed Officers findings.

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

Having received the further photographs of the site and information from both the Appointed Officer and the Applicant, the Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Following consideration, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00311/APP as it is contrary to policies DP4 (Rural Housing), DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character of the MLDP 2020).

Councillor Ross lost connection during consideration of this item and did not take part in the remainder of the meeting.

**Planning Application 20/00355/PPP – Erect dwellinghouse at site 450m  
Northwest of Ar Dachaidh, Roseisle, Elgin**

Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 29 October 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to policies H7 and IMP1 of the Moray Local Plan 2015, the Housing in the Countryside Supplementary Guidance and the Guidance Note on Cumulative Build UP of New Houses in the Countryside for the following reasons:

- i. The development is contrary to Policy IMP1: Developer Requirements and Policy H7: New Housing in the Open Countryside of the adopted Moray Local Development Plan 2015 and, as a material consideration, associated Supplementary Guidance on Housing in the Countryside and Guidance Note on the Landscape and Visual Impacts of Cumulative Build-Up of Houses in the Countryside for the following reasons:

- 1. It does not reflect the traditional pattern of settlement in the locality detracting from the character of the surrounding area.
- 2. Together with other development in the immediate vicinity at Clarkyhill it will have the effect of changing the rural character of the area.
- 3. Development on the proposed site would not be sensitively integrated into the surrounding landscape.

At the meeting of the MLRB on 29 October 2020, the MLRB agreed to defer case LR242 to allow the Appointed Officer the opportunity to determine the planning application in accordance with the policies in the new Moray Local Development Plan (MLDP) 2020, and thereafter, allow the Applicant to make further representation on the Appointed Officers findings.

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

Having received the further photographs of the site and information from both the Appointed Officer and the Applicant, the Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Following consideration, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00355/PPP as it is contrary to policies DP4 (Rural Housing) and DP1 (Development Principles) of the MLDP 2020.

## **7 LR245 - Ward 8 - Forbes**

### **Planning Application 20/00718/APP – Erect dwellinghouse on site at Marcassie Farm, Rafford, Forbes, 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 application proposes a new dwellinghouse on a site within an identified pressurised and sensitive area where no new housing will be permitted and is therefore contrary to the siting and design requirements of policy DP4 – Rural Housing. A house on the site would therefore detract from the rural landscape character of the wider area, contrary to policy DP1 – Development Principles, as well as DP4 – Rural Housing.

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, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Councillor Alexander noted that this Planning Application, like others considered at the meeting, had been refused in terms of policy DP4 (Rural Housing) in the Moray Local Development Plan (MLDP) 2020 and urged prospective applicants to note that, unless the planning application complied with this policy, it was likely to be refused. Councillor Coy agreed with Councillor Alexander's comments and asked what advice was available to prospective applicants prior to submitting a full planning application, which is costly.

In response, Mr Henderson, Planning Adviser advised that the MLDP 2020 went through extensive public consultation prior to being formally adopted by the Council. He further advised that pre-application advice can be requested from the Planning Service if required.

Following consideration, the MLRB unanimously agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00718/APP as it is contrary to policies DP4 (Rural Housing) and DP1 (Development Principles) in the MLDP 2020.

## **8 LR246 - Ward 5 - Heldon and Laich**

### **Planning Application 20/00622/APP – Retrospective consent to convert existing domestic garage to sweet workshop (including sales) at 14 Park Place, Lossiemouth**

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 Moray Local Development Plan (MLDP) 2020 because the use of a domestic garage as a sweet workshop including sales to customers would result in a business use which would involve visiting members of the public to the site and would be detrimental to the residential character and amenity of the site and adjoining neighbouring properties and is therefore contrary to policies DP1, PP1 and PP2 of the MLDP 2020.

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 Planning Adviser advised that she had nothing to raise at this time. The Legal Adviser advised that a plan had been circulated to the Moray Local Review Body (MLRB) ahead of the meeting which included information that was not before the Appointed Officer at the time of determination and, if the MLRB were of the view that this was relevant information that should be taken into consideration, then, in terms of the procedure, the Appointed Officer should have the opportunity to comment on this information.

Following consideration, the MLRB unanimously agreed that the Appointed Officer be given the opportunity to comment on the new information contained within the plan and agreed to defer Case LR246 to a future meeting of the MLRB to allow this.

## **9 LR247 - Ward 4 - Fochabers Lhanbryde**

Councillor Bremner, having declared an interest in this item, took no part in the determination of this case and handed the role of Chair over to Councillor Taylor, as agreed by the Moray Local Review Body (MLRB) earlier in the meeting.

### **Planning Application 20/00636/PPP New House and Garage on a site to the north of Barnyard Studios, Upper Garmouth, Fochabers**

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 would be contrary to the Garmouth ENV6 designation and associated policies PP1, DP1, DP2 and EP5 of the Moray Local Development Plan (MLDP) 2020, on the basis that these policies aim to protect and preserve the characteristics of ENV areas and policy EP5 specifically excludes residential development from ENV designations.

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, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

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

Councillor Gatt, having considered the case in detail, noted that the Applicant had carried out a significant amount of work on the land which had led to its ENV designation. He further noted that the Applicant had given land to the local community therefore moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/00636/PPP as the proposal would be an acceptable departure from policies PP1, DP1, DP2 and EP5 associated to the Garmouth ENV6 designation as, in his opinion, the land constituted semi-natural green space as it had been enhanced by the Applicant. On failing to find a seconder, his motion fell.

Thereafter, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00636/PPP as it is contrary to the Garmouth ENV6 designation and associated policies PP1 (Placemaking), DP1 (Development Principles), DP2 (Housing) and EP5 (Open Space) of the MLDP 2020.

## **10      LR248 - Ward 8 - Forres**

Councillor Bremner rejoined the meeting at this juncture and resumed the role of Chair.

### **Planning Application 20/00947/PPP – Small dwelling house at, Heatheryfold Caravan, Damhead, Rafford, Forres**

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 requirements of the Moray Local Development Plan (MLDP) 2020 policies PP3 (Infrastructure and Services) and DP1 (Development Principles) because the existing U107E/B9011 junction serving the site is considered to be inadequate to serve the proposed development, by reason of its restricted visibility and width. If permitted, the proposal would result in an intensification of use of the constrained junction and would likely give rise to conditions detrimental to the safety of road users.

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, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Following consideration, the MLRB unanimously agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00947/PPP as it is contrary to policies PP3 (Infrastructure and Services) and DP1 (Development Principles) of the MLDP 2020.