

# **MORAY COUNCIL**

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

**Thursday, 31 January 2019**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

### **PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Amy Patience, Councillor Derek Ross

### **APOLOGIES**

### **IN ATTENDANCE**

The Senior Planning Officer (Development Planning and Facilitation) and Mrs E Gordon, Planning Officer as Planning Advisers, Legal Services Manager as Legal Adviser and Mrs L Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

#### **1. Chair**

Councillor Patience, being 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 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.

#### **3. Minute of Meeting dated 20 December 2018**

The Minute of the Meeting of the Moray Local Review Body dated 20 December 2018 was submitted and approved.

#### **4. LR218 - Ward 5 - Heldon and Laich**

**Planning Application 18/01207/APP – Erect extension at 13 Bishops Court,  
Lossiemouth, IV31 6TL**

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 Moray Local Development Plan 2015 policies IMP1 and H4 for the following reasons:-

The proposed two storey side extension of the form and size submitted, positioned immediately to the south of neighbouring housing (in this case 11 Bishops Court) would represent an inappropriate form of development for this location which would be detrimental to the amenity of neighbouring occupiers.

The proposed extension would cause an unacceptable loss of daylight and sunlight, and an increased sense of enclosure/overbearing impact to the garden of this adjacent property, by reason its bulk, height and close proximity to the site (side) boundary. It would therefore cause a material loss of residential amenity, contrary to policies IMP1 and H4.

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 in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

With regard to the unaccompanied site inspection carried out on 24 January 2019, the Chair stated that all present members of the Moray Local Review Body (MLRB) 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 Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review noted the Appointed Officer's comments in relation to policy H4 in terms of badly designed extensions and alterations however stated that he was of the view that the design of the extension was acceptable.

Councillor Gatt, also having had the opportunity to visit the site and consider the Applicant's grounds for review agreed with Councillor Bremner and also noted that the Appointed Officer's Report of Handling stated that the proposal would cause an unacceptable loss of daylight and sunlight, and an increased sense of enclosure/overbearing impact to the garden of the adjacent property. On reviewing the paperwork provided, Councillor Gatt stated that he could not find any report detailing the amount of sunlight that currently falls on the neighbouring property compared with the expected loss of sunlight once the extension is built to support this claim.

In response to Councillor Bremner's statement, the Planning Adviser advised that the proposal had not been refused on its design but due to the detrimental impact it would have on neighbouring occupiers in terms of the loss of sunlight/daylight due to the scale of the proposed extension. With regard to the sunlight/daylight assessment raised by Councillor Gatt, the Planning Adviser advised that a detailed assessment of sunlight and daylight had been

carried out however was not included in the papers submitted by Development Management.

Given this further information from the Planning Adviser, Councillor Gatt moved that consideration of Case LR218 be deferred until the next possible meeting of the MLRB so that further information could be provided from Development Management in respect of the sunlight/daylight assessment that was undertaken by the Appointed Officer at the time of determination. This was seconded by Councillor Ross.

Councillor Bremner, on hearing the advice from the Planning Adviser in terms of the proposed design not being the reason the application had been refused, queried why policy H4 had been cited as a reason for refusal.

In response, the Planning Adviser advised that policy H4 was the overriding policy in terms of extensions which also takes into consideration the size and scale of the proposal which was deemed to be inappropriate.

Councillor Bremner, being of a different view from the Appointed Officer in terms of policy H4, moved that the Appeal be upheld and planning permission granted as he was of the opinion that policy H4 did not apply to the proposal.

The Legal Adviser, on hearing Councillor Bremner's motion to approve the planning application, advised that Councillor Bremner would require to provide further reasons if he was minded to overturn the decision of the Appointed Officer as the application had been refused in terms of the scale of the proposal and the unacceptable loss of daylight and sunlight on the neighbouring property.

On hearing the advice from the Legal Adviser, Councillor Bremner agreed to withdraw his motion so that the sunlight/daylight assessment could be provided to the Committee.

There being no-one otherwise minded, the MLRB agreed to defer Case LR218 to the next possible meeting of the MLRB, so that further information could be provided from Development Management in respect of the sunlight/daylight assessment that was undertaken by the Appointed Officer at the time of determination.