

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 16 November 2023

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

PRESENT

Councillor Neil Cameron, Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Derek Ross, Councillor Draeyk Van Der Horn, Councillor Sonya Warren

IN ATTENDANCE

Mrs MacDonald, Senior Planning Officer and Mr Miller, Senior Planning Officer as Planning Advisers, Mr Hoath, Senior Solicitor and Ms Smith, Solicitor as Legal Advisers and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1 Chair

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

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 21 and 23 and the Councillor's 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 the meeting held 14 September 2023

The Minute of the meeting dated 14 September 2023 was submitted and approved.

4 LR292 - Ward 5 - Heldon and Laich

Planning Application 23/00132/APP – Alter and extend dwellinghouse at 9 Pitgaveny Street, 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 proposed extended box dormer to the front and new box dormer to the rear of the existing dwelling are contrary to the Moray Local Development Plan (2020) and National Planning Framework 4 for the following reasons:

1. The proposals are unacceptable in terms of policy DP1(g) which precludes box dormers. Furthermore, the dormers are of a poor design which is incongruous with the character and scale of the existing property and surrounding area due to the unnecessary bulk and box-like appearance which the box dormers would introduce. The dormers would also be considered overdevelopment of the existing front and rear roofplanes and as such would fail to comply with MDLP2020 Policy DP1 and NPF4 Policies 14 and 16.
2. The Moray Local Landscape Review Designation Review for the Burghead to Lossiemouth SLA specifically states that development should be of the highest quality and of a scale and style that reflects buildings within the original core of the settlement. It is noted that proposed extended box dormer and new rear box dormer would have a detrimental impact on the character of the wider SLA and is therefore not considered to comply with MLDP 2020 policy EP3 and NPF4 Policy 4.

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, the Mr Miller, Planning Adviser advised that he had nothing to raise at this time.

The Mr Hoath, Legal Adviser advised that the Applicant had included 3D images with his Notice of Review application that were not before the Appointed Officer at the time of determination, however this had not gone through the new information procedure as it was considered that these were the same plans albeit presented in a different manner.

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 Cameron, having visited the site and considered the case in detail agreed with the original decision of the Appointed Officer to refuse the planning application and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 23/00132/APP as it is contrary to policy DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020 and policies 4, 14 and 16 of NPF4. This was seconded by Councillor Warren.

There being no-one otherwise minded, 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 23/00132/APP as it is contrary to policy DP1 (Development Principles) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020 and policies 4, 14 and 16 of NPF4.

5 LR295 - Ward 1 - Speyside Glenlivet

Planning Application 23/00423/PPP – Erect dwellinghouse and detached garage on site at Boharm Neuk, Boharm, Craigellachie

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 in principle on the grounds that:

The development is contrary to Moray Local Development Plan 2020 Policies DP4: Rural Housing and DP1: Development Principles and to National Planning Framework Policy 17 Rural Homes for the following reasons:

1. The proposed development does not fit into the local landscape character in that the new house will be set far back from, and above, the public road out of character with the prevailing original development pattern in the area with the visual impacts of this exacerbated by the relationship to liveplanning consents for new house sites in the immediate area.
2. The proposed development, together with the number of live planning consents for new house sites in the immediate area, will contribute to an unacceptable build-up of housing and detrimentally alter the rural character of the area, creating unacceptable visual and landscape impacts.
3. The proposed development is contrary to Moray Local Development Plan Policy DP4 Rural Housing and its associated Policy Guidance on Cumulative Build Up as, together with other live planning consents for new houses sites in the immediate area, it will result in new houses overwhelming the presence of older buildings such that new houses are the predominant components of the landscape with the original settlement pattern difficult to perceive; the incidence and inter-visibility of new houses will become a major characteristic of the landscape; there will be a prominence of new houses from key viewpoints such as the public road; and there will be sequential visual effects of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site.

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 Mr Hoath, Legal Adviser advised that he had nothing to raise at this time.

Mrs MacDonald, Planning Adviser advised that developer obligations had been sought in relation to the proposed development and, should the Moray Local Review Body (MLRB) be minded to uphold the appeal and grant planning permission in principle, this would be subject to the payment of developer obligations, which, if not paid, would have to come back to the MLRB for consideration. This was noted.

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 Ross, having considered the case in detail, noted the planning consents that had already been issued and the number of houses already built in the surrounding area, which, in his opinion, had already resulted in cumulative impact of development in that area. He was also of the view that the buildings referred to by the Appointed Officer as "older" were modern in appearance. He stated that the location of the proposal was discrete in that it was off the main road and would not create an unacceptable visual impact. Taking all of this into consideration, Councillor Ross moved that the MLRB uphold the appeal and grant planning permission in principle in relation to Planning Application 23/00423/PPP as it complies with Policies DP4 (Rural Housing) and DP1 (Development Principles) of the MLDP 2020 and Policy 17 (Rural Homes) of the NPF4. This was seconded by Councillor McBain.

Councillor Harris, having visited the site and considered the case in detail, agreed with the original decision of the Appointed Officer and moved, as an amendment, that the MLRB uphold the original decision of the Appointment Officer to refuse planning permission in principle in relating to Planning Application 23/00423/PPP as it does not comply with Policies DP4 (Rural Housing) and DP1 (Development Principles) of the MLDP 2020 and Policy 17 (Rural Homes) of the NPF4. This was seconded by Councillor Van Der Horn.

On a division there voted:

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| For the Motion (5): | Councillors Ross, McBain, Dunbar, Keith and Macrae |
| For the Amendment (4): | Councillors Harris, Van Der Horn, Cameron and Warren |
| Abstentions (0): | Nil |

Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in principle in relation to Planning Application 23/00423/PPP as it complies with Policies DP4 (Rural Housing) and DP1 (Development Principles) of the MLDP 2020 and Policy 17 (Rural Homes) of the NPF4 subject to the payment of developer obligations, which, if not paid, would have to come back to the MLRB for consideration.