

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 18 January 2024

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

PRESENT

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

APOLOGIES

Councillor Neil Cameron

IN ATTENDANCE

Mrs MacDonald, Senior Planning Officer as Planning Adviser, 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 Meeting dated 14 December 2023

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

4 LR296 - Ward 8 - Forres

Planning Application 23/01024/APP – Retrospective consent to erect a 4.5m height flagpole in the grounds of Alba, 195 Findhorn, 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 policies 4, 7 and 14 of the National Planning Framework (NPF) and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan (MLDP) 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

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, Legal Adviser advised that a query had been raised in relation to previous planning consent that had been given on the site and that it had been implied that the flagpole should have automatically received consent with this previous consent. He advised that the legal view is that this permission cannot be claimed in this way and was irrelevant to the case before the Moray Local Review Body (MLRB) and that the remit of the MLRB was to determine the review application in its own merits in accordance with the information provided in the agenda pack.

Mrs MacDonald, Planning Adviser further confirmed that the application for planning permission was in relation to the flagpole and not the flag itself and pointed out that the Agent had stated in his case that the Appointed Officer had misstated legislation in terms of Conservation Areas however clarified that the Officer had stated the Council Policy which is to preserve and enhance the character or appearance of the Conservation Area, not statutory requirement which is to preserve or enhance the character or appearance of the Conservation Area. 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 McBain, having visited the site and considered the case in detail was of the view that the presence of the flagpole is not contrary to policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) or policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020 as, in his opinion, there was no adverse impact to the surrounding area, the flagpole itself was of good quality and he was of the view it enhanced the

character of the area and moved that the MLRB uphold the appeal and grant planning permission in relation to Planning Application 23/01024/APP, for these reasons. This was seconded by Councillor Warren.

Councillor van der Horn, having visited the site and considered the case in detail, noted that the flagpole was situated in a very prominent position at the entrance to Findhorn and that, should it be granted planning permission, any flag could be flown there. He acknowledged that the Community Council had objected to the application and stated that the views of the Community should be considered. He further noted various road traffic signage at that particular part of Findhorn and stated that the presence of a flag on a flagpole could distract from the other signage. For these reasons, Councillor van der Horn moved that the MLRB uphold the original decision of the Appointed Officer and refuse planning permission in respect of Planning Application 23/01024/APP as the proposal is contrary to policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) and policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020. This was seconded by Councillor Macrae.

On a division there voted:

For the Motion (4):	Councillors McBain, Warren, Dunbar and Harris
For the Amendment (3):	Councillors van der Horn, Macrae and Keith
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 relation to Planning Application 23/01024/APP as the proposal complies with policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) and policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020.