

# MORAY COUNCIL

## Minute of Meeting of the Moray Local Review Body

Thursday, 29 April 2021

### Remote Locations via Video-Conference

#### **PRESENT**

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

#### **APOLOGIES**

Councillor Gordon Cowie

#### **IN ATTENDANCE**

Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs Gordon, Planning Officer 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 Taylor, 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 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 25 March 2021**

The Minute of the meeting of the Moray Local Review Body dated 25 March 2021 was submitted and approved.

#### **4 LR254 - Ward 1 - Speyside Glenlivet**

##### **Planning Application 20/01349/APP – Proposed dwellinghouse with integrated garage at Mulben View, Mulben**

Under reference to paragraph 5 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 25 March 2021, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning application on the grounds that:

The development is contrary to Policy DP4: Rural Housing and DP1: Development Principles of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. It would not fit with the local landscape character of the area and would not be integrated into the surrounding landscape which is characterised by dispersed rural properties with wooded features/setting.
2. There is not an acceptable level of enclosure, containment and backdrop for a new house.
3. It would detrimentally alter the rural character of the area by creating the beginnings of ribbon development beside an existing house on a site lacking sufficient visual containment in a prominent location adjacent to a main A class trunk road.

The Chair stated that, at the meeting of the MLRB on 25 March 2021, she had proposed that the MLRB consider new information included in the Applicant's paperwork ie a letter of support from Health and Social Care Moray and defer the case until a future meeting to allow the Appointed Officer the opportunity to comment on the letter of support which was subsequently unanimously agreed. The letter of support from Health and Social Care Moray was included within Appendix 2 and the response to the supporting letter was set out at Appendix 3 of the paperwork.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Planning Adviser advised of a typo within the Report of Handling which stated that the trunk road was the A98 when it should read the A95. This was noted. The Legal Adviser advised that he had circulated a document in relation Equalities Duties to members of the MLRB ahead of the meeting as a reminder of the general equalities duties on decision making bodies, rather than specific legal advice about this case.

Having received the letter of support from Health and Social Care Moray and the further comment from the Appointed Officer on the letter, 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, stated that he was of the view that the proposal complied with policy DP4 as it was in the open countryside and that, having researched the term ribbon development, he was of the view that the proposal did not constitute ribbon development as it was not in line with the existing property and was approximately 275 feet from the roadside. With regard to the reason for refusal in terms of an unacceptable level of enclosure and containment, Councillor Gatt was of the view that this could be addressed by adding a suitable condition to the consent and moved that the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/01349/APP in these terms.

Councillor Bremner agreed with the points raised by Councillor Gatt and seconded his motion. Councillor Bremner further stated that the MLRB's equalities duties were a material consideration and so the specific requirements of the applicant could be considered when determining this planning application. He further stated that, in terms of improving the level of enclosure and containment, wording of the

condition should be delegated to Officers so that the planting complies with the requirements of the MLDP 2020.

The Clerk sought clarification from Councillor Gatt as to whether he was prepared to accept Councillor Bremner's comments in relation to equalities as a material consideration in determining the planning application into his motion. In response Councillor Gatt agreed to accept all of Councillor Bremner's comments into his motion.

Councillor Alexander noted the points raised by Councillors Gatt and Bremner, in terms of the family's need for suitable housing however stated that adaptations could be made to their existing house. He raised concern in relation to the MLRB overturning the decision of the Appointed Officer by stating that the proposal complied with policy DP4 and that 2 houses did not constitute ribbon development as he was of the view that this could set a precedent for future similar proposals and therefore 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 20/01349/APP. On failing to find a seconder, his motion fell.

There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/01349/APP as it complies with policy DP4 (Rural Housing) and DP1 (Development Principles) and does not constitute ribbon development, subject to a suitable condition in relation to improving the level of enclosure and containment, the wording of which to be delegated to the Appointed Officer, so that the planting complies with the requirements of the MLDP 2020.

## **5 LR256 - Ward 2 - Keith and Cullen**

### **Planning Application 20/01549/APP – Erection of 1.8m high timber boundary fence at 10 Isla Road, Newmill, Keith, AB55 6US**

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 position of the fence, forward of the principal elevation, interrupts the open aspect to the front of the house, failing to comply with policy DP1 – Development Principles of the Moray Local Development Plan 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 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 Bremner, having considered the case in detail, agreed with the decision of the Appointed Officer and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in relation to Planning Application 20/01549/APP as the proposal does not comply with policy DP1 (Development Principles). This was seconded by Councillor Coy.

There being no-one otherwise minded, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in relation to Planning Application 20/01549/APP as the proposal does not comply with policy DP1 (Development Principles).