

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 30 September 2021

Various Locations via Video-Conference

PRESENT

Councillor David Bremner, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Louise Nicol, Councillor Laura Powell, Councillor Amy Taylor

APOLOGIES

Councillor Derek Ross

IN ATTENDANCE

Ms Webster, Principal Planning Officer (Strategic Planning and Development) and 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 26 August 2021

The Minute of the meeting of the Moray Local Review Body dated 26 August 2021 was submitted and approved.

4 LR262 - Ward 4 - Fochabers Lhanbryde

Planning Application 20/00075/APP – Change of use of garden ground to form operators lorry and trailer parking space at Morven View, Clochan, Buckie

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 against the provisions of the Moray Local Development Plan (MLDP) 2020 because:

1. The proposed change of use of garden ground to HGV Operating Centre (for one HGV and one trailer) in the grounds of this existing modern rural residential property would result in large industrial vehicle(s) being accommodated in the grounds of a domestic property in the countryside, a use which is not ordinarily associated with domestic property or the rural environment. This means that the proposed use is considered to be an inappropriate, non-confirming use which is not in keeping with the existing rural area. On this basis, the proposal fails to comply the requisite requirements of Policies DP5 and DP1.
2. This proposal would result in an intensification of use of the single track roads serving the site, by large articulated vehicle and would be likely to result in approaching vehicles having to undertake potentially unsafe reversing manoeuvres out of the path of the oncoming Heavy Goods Vehicle, as well as resulting in damage to the carriageway/verge due to vehicle verge overrunning. Due to the length of the overall route which has limited passing opportunities, it is considered that the proposal cannot be adequately mitigated against, and additionally that any agreed route could not be enforceable even with mitigation works provided. Transportation considers that this proposal, if permitted, would be likely to result in conditions detrimental to the road safety of road users contrary to MLDP policies DP1 (Development Principles) section (ii) Transportation, part a).

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 Gatt, having considered the case in detail, stated that he was minded to uphold the appeal and grant planning permission in respect of Planning Application 20/00075/APP. He noted that in 2017 planning permission was granted for Planning Application 17/01017/APP for a change of use of agricultural land to garden ground and erection of a domestic storage shed which had received no objection from Transportation at that time and highlighted the statement from the Applicant which stated that the Applicant was already permitted to haul his 2 JCBs by hired transport therefore the road would already be used by HGVs whether he was driving the vehicle or not. Councillor Gatt acknowledged that the 2017 planning application had been determined using the MLDP 2015, however stated that the relevant policy T2 in the MLDP 2015 and DP1 ii) in MLDP 2020, were very similar. He further noted that the HGV lorry in question was the same size as the lorries used by the Council for refuse collection and recycling which already use the road in question. Councillor Gatt therefore moved that the MLRB uphold the

appeal and grant planning permission in respect of Planning Application 20/00075/APP as, in his view the proposal complies with policies DP1 (Development Principles) and DP5 (Business and Industry) as the large building already has planning permission and has been erected. Furthermore, Cllr Gatt stated that, in his opinion the proposal complies with policy DP1 (Development Principles) ii) (Transportation) as the policy is broadly similar to policy T2 in the MLDP 2015 which received no objection from Transportation during consultation on Planning Application 17/01017/APP. This was seconded by Councillor R McLean.

In response to Councillor Gatt's comments regarding the size of the domestic storage shed that was already present on the site, Ms Webster, Planning Adviser clarified that the MLRB were being asked to determine Planning Application 20/00075/APP which was for a change of use of garden ground to form operators lorry and trailer parking space and was not for a change of use of the building on the garden ground. This was noted.

Councillor Coy agreed with the original decision of the Appointed Officer and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Permission in respect of Planning Application 20/00075/APP as the proposal fails to comply with policies DP5 (Business and Industry), DP1 (Development Principles) and DP1 ii) (transportation). This was seconded by Councillor Bremner.

On a division there voted:

For the Motion (8):	Councillors Gatt, R McLean, Cowie, Powell and Taylor
For the Amendment (3):	Councillors Coy, Bremner and Nicol
Abstentions (0):	Nil

Accordingly, the Motion became the finding the Meeting and the MLRB agreed to grant planning permission in respect of Planning Application 20/00075/APP as the proposal complies with policies DP5 (Business and Industry), DP1 (Development Principles) and DP1 ii) (transportation).

5 LR263 - Ward 2 - Keith and Cullen

Planning Application 21/00485/APP Convert garage to hairdressing salon at 14 Victoria Place Keith

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 development is contrary to Policies DP1 (Development Principles) and DP7 (Retail/Town Centres) of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. The level of activity and infrastructure associated with the change of use would be out of keeping with the character, appearance and scale of the existing residential street and this would impact adversely on neighbouring residential properties, giving rise to an unacceptable overbearing loss of amenity, in terms of noise and disturbance.

2. As the development would be likely to generate significant footfall, it should be located within a town centre. The proposed site is outwith Keith town centre and it has not been demonstrated that no sequentially preferable sites are available.

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 was of the view that the proposal complied with policies DP1 (Development Principles) and DP7 (Retail/Town Centres) as, in his opinion, the business attracting 6-8 clients per day did not constitute a significant increase in footfall. In terms of policy DP7, his interpretation of this policy was that the Council should support small units of up to 150 m² that contribute to a mix of use such as class 2, professional services. With regard to policy EP5 (Open Space), Councillor Bremner acknowledged the Appointed Officer's view that the proposal was an acceptable departure from this policy due to the minimal impact on the amenity and quality of the ENV designation. Taking the above points into consideration, Councillor Bremner moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 21/00485/APP as in his opinion the proposal complies with policies DP1 (Development Principles), DP7 (Retail/Town Centres) and, as the Appointed Officer had stated, was an acceptable departure from policy EP5 (Open Space). This was seconded by Councillor Coy.

Councillor R McLean was of the view that the location of the proposal was not suitable and moved as an amendment that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/00485/APP as the proposal is contrary to Policies DP1 (Development Principles) and DP7 (Retail/Town Centres) of the MLDP 2020. This was seconded by Councillor Powell.

On a division there voted:

For the Motion (4):	Councillors Bremner, Coy, Nicol and Taylor
For the Amendment (4):	Councillor R McLean and Powell, Cowie and Gatt
Abstentions (0):	Nil

There being equality of votes, and in terms of Standing Order 63(e), the Chair cast her casting vote in favour of the motion.

Accordingly the Motion became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 21/00485/APP as the proposal complies with policies DP1 (Development

Principles), DP7 (Retail/Town Centres) and is an acceptable departure from policy EP5 (Open Space).

6 LR264 - Ward 8 - Forres

Planning Application 21/00593/APP – Replacement windows at Sunny Bank, Victoria Road, 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 proposed development is contrary to Policy DP1: Development Principles and Policy EP9: Conservation Areas of the adopted Moray Local Development Plan 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance for the following reasons:

- the removal of original timber sash and case windows and replacement with non-traditional UPVC units located on principal elevations and elevations on a public view would fail to preserve or enhance the established traditional character and appearance of Forres Outstanding Conservation Area.
- the proposed finishes are considered to adversely affect the character and appearance of Forres Outstanding Conservation Area, are not appropriate to the surrounding area, and do not respect the architectural authenticity of the building and the character of Forres Outstanding Conservation Area.

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 Henderson, Planning Adviser advised the Moray Local Review Body (MLRB) of a mistake in the Report of Handling where reference to the south elevation should read north and reference to the north elevation should read south, and confirmed that if you were to stand facing the building, you would be facing the south elevation which was the principle elevation. This was noted.

The Legal Adviser advised that the Applicant had included additional information with his Notice of Review application in the form of details of neighbouring properties with UPVC windows and that the Applicant had stated that the Appointed Officer had been made aware of these properties verbally during the application process however this information had not formed part of the application paperwork. The Legal Adviser advised that, should the MLRB wish to consider this information, then in terms fairness, the MLRB should decide whether it wished a further procedure to allow the Appointed Officer to comment on the additional information.

The Chair stated that it would be useful to consider the additional information and moved that the MLRB defer Case LR264 to a future meeting of the MLRB to allow the Appointed Officer the opportunity to comment on the additional information.

There being no-one otherwise minded, the MLRB agreed to defer Case LR264 to a future meeting of the MLRB to allow the Appointed Officer the opportunity to comment on the additional information.