

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 25 March 2021

Remote Locations via Video-Conference,

PRESENT

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

SUBSTITUTES

APOLOGIES

Councillor George Alexander

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 and the Legal Services Manager as Legal Advisers 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 February 2021

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

4 LR253 - Ward 6 - Elgin City North

Planning Application 20/01419/APP - Change of use from office workshop to kids club and fitness club at 14 Pinefield Parade, Elgin, Moray, IV30 6AG

Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 25 February 2021, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposed change of use is contrary to Moray Local Development Plan (MLDP) 2020 DP1 (i)(a), DP5, Elgin I5 and DP (ii)(a &e) for the following reasons:-

- i. The proposal would introduce an incompatible use into an established industrial area and would create conflict with other existing uses.
- ii. The proposal fails to provide for safe access and parking and would give rise to conditions that are detrimental to the safety of road users and pedestrians.

The Chair stated that, at the meeting of the MLRB on 25 February 2021, it was noted that the Applicant had included a Safety Statement that was not before the Appointed Officer at the time of considering the original planning application therefore it was agreed to defer the case until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement. The Safety Statement was set out in Appendix 2 and the response to the Safety Statement was set out at Appendix 5.

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.

Having received the Safety Statement and further comment from the relevant Officer, 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 R McLean, having considered the case in detail was of the view that there was considerable community benefit from the proposal and that, as there was already a gym and dog day care in the industrial estate, change of use for the purpose of the proposal was acceptable. He noted the reasons for objecting to the proposals from the Transportation Service however was of the view that Transportation were being overly cautious therefore moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/01419/APP as in his opinion, the proposal complies with policies DP1 (Development Principles) and DP5 (Business and Industry) of the MLDP 2020. This was seconded by Councillor Ross as he was familiar with the area and knew that children walked the route regularly.

Councillor Coy, having considered the case in detail, welcomed the proposal however agreed with the view of the Appointed Officer in that the location of the proposal was not suitable for children and moved, as an amendment, that the MLRB agree to dismiss the appeal and uphold the decision of the Appointed Officer to refuse Planning Application 20/01419/APP. This was seconded by Councillor Bremner.

On a division there voted:

For the Motion (5): Councillors R McLean, Ross, Cowie, Gatt and Powell

For the Amendment (3): Councillors Coy, Bremner and Taylor

Abstentions (0): Nil

Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to grant planning permission in respect of Planning Application 20/01419/APP as the proposal complies with policies DP1 (Development Principles) and DP5 (Business and Industry) of the MLDP 2020.

5 LR254 - Ward 1 - Speyside Glenlivet

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

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

- i. 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.
- ii. There is not an acceptable level of enclosure, containment and backdrop for a new house.
- iii. 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.

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 Planning Adviser advised that he had nothing to raise at this time. The Legal Adviser advised that the Applicant had included a letter of support from Health and Social Care Moray which he would like the Moray Local Review Body (MLRB) to consider however, if the MLRB wished to take the letter of support into consideration, then it should consider whether any further procedure would be required including deferring the case to allow the Appointed Officer the opportunity to comment on the letter of support.

The Chair sought the agreement of the MLRB to consider the new information and in the meantime defer the case until a future meeting of the MLRB to allow the Appointed Officer the opportunity to comment on the letter of support from Health and Social Care Moray. This was unanimously agreed.

Planning Application 20/00544/APP – Erect 7 detached dwellinghouses on Site Adjacent To 1-5 Station Road Portessie

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 would be contrary to the Buckie ENV5 designation and associated policies PP1, DP1, DP2, EP2, EP5 and EP7 of the Moray Local Development Plan (MLDP) 2020, in that the development would result in the loss of land within an ENV designation where these policies aim to protect and preserve the characteristics of ENV areas and where policy EP5 specifically excludes residential development within ENV designations.

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 Legal Adviser advised that he had nothing to raise at this time. The Planning Adviser advised that financial implications are not a material consideration in the determination of this appeal and that NPF4 has no legal status and should be given limited weight as a material consideration as it is an emerging framework and sets out the direction of travel for future policy but at this moment it has not been approved by the Scottish Government.

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 Cowie, being familiar with the site, queried why it was given an ENV designation as it had previously been a railway station and a development site.

In response, the Planning Adviser advised that the Report of Handling stated that the Reporter had stated that the established vegetation on the site effectively screens the built edge of Portessie from the open countryside and provides a valuable landscape setting to the settlement and that the development of the site would breach the natural limit of the village therefore recommended that it is reinstated as ENV5 as "Green Corridor" and that the recommendation from the Reporter was subsequently accepted by the Council the MLDP 2020 modified accordingly. Therefore the ENV status of the site was beyond doubt.

Councillor Cowie disagreed with the findings of the Reporter and was of the view that the Applicant's proposals to retain the core path and cycle route, planting of trees, need for housing in the area and the possible increase to the school roll would benefit the Community.

Ms Webster, Principal Planning Officer (Strategic Planning and Development advised that, based on projections calculated using the pupil product ratio, the proposed development would only increase the primary school roll by 3 pupils.

Councillor Coy, having considered the case in detail was of the view that the MLRB should determine the case based on the policies within MLDP 2020 which has been formally adopted by the Council and which has designated the site as ENV therefore moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 20/00544/APP as the proposal is contrary to the Buckie ENV5 designation and associated policies PP1 (Placemaking), DP1 (Development Principles), DP2 (Housing), EP2 (Biodiversity), EP5 (Open Space) and EP7 (Forestry, Woodlands and Trees) of the MLDP 2020. This was seconded by Councillor Bremner.

Councillor R McLean, having considered the case in detail and listened to the debate was of the view that the proposal was an acceptable departure from Policies PP1 (Placemaking), DP1 (Development Principles), DP2 (Housing), EP2 (Biodiversity), EP5 (Open Space) and EP7 (Forestry, Woodlands and Trees) of the MLDP 2020 based on community benefit in terms of housing and the school roll and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/00544/APP. This was seconded by Councillor Gatt.

On a division there voted:

For the Motion (3): Councillors Coy, Bremner and Taylor

For the Amendment (5): Councillors R McLean, Gatt, Cowie, Powell and Ross

Abstentions (0): Nil

Accordingly, the Amendment became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/00544/APP subject to standard conditions and informatives and following the payment of developer obligations, as the application is considered to be an acceptable departure from policies PP1 (Placemaking), DP1 (Development Principles), DP2 (Housing), EP2 (Biodiversity), EP5 (Open Space) and EP7 (Forestry, Woodlands and Trees) of the MLDP 2020 based on community benefit in terms of housing and the school roll.