

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 20 December 2018

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

PRESENT

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Derek Ross

APOLOGIES

Councillor Ray McLean, Councillor Amy Patience

IN ATTENDANCE

The Senior Planning Officer (Development Planning and Facilitation) and Mrs E Gordon, Planning Officer as Planning Advisers, Legal Services Manager (Property and Contracts) as Legal Adviser and Mrs L Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1. Chair

In the absence of Councillor Patience, the meeting was chaired by Councillor Bremner, being the Depute Chair of the Moray Local Review Body.

2. Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' 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 Member's interests in respect of any item on the agenda.

3. Minute of Meeting dated 29 November 2018

The Minute of the Meeting of the Moray Local Review Body dated 25 October 2018 was submitted and approved.

4. LR216 - Ward 2 - Keith and Cullen

Continuation of Case LR216 - Planning Application 18/00628/PPP - Erect dwelling house on site adjacent to Bracobrae, Grange, Keith

Under reference to paragraph 5 of the Minute of this Committee dated 29 November 2018, the (Moray Local Review Body) MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the following grounds:

The proposal is unacceptable and contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies H7 and IMP1) and, as a material consideration, the associated Supplementary Guidance 'Housing in the Countryside' where, because of its location/siting, this would be an inappropriately located site as development thereon would lead to a joining up and coalescence of development in the vicinity of the site, and in creating and serving to reinforce a ribbon or linear form of development extending along the C47H road, the proposal would therefore be detrimental to and undermine the character, appearance and amenity of the open countryside within this part of Grange.

A Summary of Information report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

The Chair stated that, at the meeting of the MLRB on 29 November, it had become apparent that the wrong location plan had been published in the Agenda and it was agreed to defer Case LR216 until the next meeting of the MLRB scheduled for 20 December 2018 to allow publication of the correct paperwork.

With regard to the unaccompanied site inspection carried out on 13 December 2018, the Chair stated that all members of the MLRB present were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.

In response to a question from the Chair as to whether the Legal and 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 MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.

Councillor Gatt, having had the opportunity to visit the site and consider the Applicant's grounds for review, moved that the appeal be refused and the original decision of the Appointed Officer upheld, as the proposal was contrary to Policies H7 and IMP1 of the MLDP 2015 and the associated Supplementary Guidance 'Housing in the Countryside'. This was seconded by Councillor Alexander.

There being no-one otherwise minded, the MLRB agreed to dismiss Case LR216 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 18/00628/APP as the proposal was contrary to Policies H7 and IMP1 of the MLDP 2015 and the associated Supplementary Guidance 'Housing in the Countryside'.

5. LR217 - Ward 8 - Forbes

Planning Application 18/00795/APP – Erect new rendered blockwork garage and install patio door in house at Bundon, Findhorn, Forbes, IV36 3TE

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 an application on the grounds that:

The proposal is contrary to the adopted Moray Local Development Plan 2015 policies EP7 and IMP1 on flood risk grounds where the proposal would lie entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps. The proposed garage would therefore be at medium to high risk of coastal flooding in a location that would increase flood risk to surrounding properties.

A Summary of Information Report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

With regard to the unaccompanied site inspection carried out on 13 December 2018, the Chair stated that all present members of the Moray Local Review Body (MLRB) were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.

In response to a question from the Chair as to whether the Legal and 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 MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.

Councillor Alexander, in noting that the planning application sought approval for the installation of french-doors in addition to a garage, sought clarification from the Planning Adviser as to whether the Applicant would be able to install the french-doors should the MLRB refuse the appeal to erect a garage.

In response, the Planning Adviser advised that the Report of Handling completed by the Appointed Officer stated that a separate letter would be issued to the Applicant confirming that the french-doors do not require planning permission.

Councillor Alexander stated that following the site visit, he had asked that the Flood Alleviation Team explain what the perceived impact would be to 1 hectare of land should there be a flood that rises to 1 metre taking into consideration the displacement caused by only the walls of the garage if the water flows into the garage, and also the perceived impact should the entire footprint of the garage cause the water displacement.

In response, the Planning Adviser confirmed that the Flood Alleviation Team had advised that if the water was displaced by the garage walls only, the impact would be flooding of 0.57mm over 1 hectare of land however if the water was displaced by the whole garage there would be 7.14 mm of flooding over 1 hectare.

Councillor Alexander accepted that, technically, you should not build on a flood plain, however was of the opinion that the chances of the area in question flooding to 1 metre were very low and, even if flooding did occur, the effect would be minimal and therefore moved that the appeal be upheld and planning permission granted.

Councillor Coy was minded to agree with Councillor Alexander however was unsure what impact the development might have on other properties in the area. She was

also concerned that if the MLRB upheld this appeal, it may set a precedent for future applications and on this basis was of the view that she did not have enough information to determine the application.

The Legal Adviser advised that if the MLRB required further technical information in relation to flood detail, the Case should be referred to a Hearing where the Applicant and Flood Alleviation Team could be present to answer any technical questions the MLRB may have.

Councillor Ross shared Councillor Coy's concern in that approval of the application would set a precedent and moved that the case be referred to a Hearing so that technical questions may be asked of the Applicant and the Flood Alleviation Team. This was seconded by Councillor Coy.

On hearing the motion from Councillor Ross, Councillor Alexander agreed to withdraw his motion to uphold the appeal and grant planning permission.

There being no-one otherwise minded, the MLRB agreed to refer Case LR217 to a Hearing to which the Applicant and Flood Alleviation Team should be invited to answer any technical questions which may be asked by the MLRB in relation to specific flood detail.