

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 27 September 2018

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

PRESENT

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Amy Patience

APOLOGIES

Councillor Derek Ross

IN ATTENDANCE

Also in attendance at the above meeting were:

The Senior Planning Officer (Development Planning and Facilitation) as Planning Adviser, 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

The meeting was chaired by Councillor Patience.

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 Members interests in respect of any item on the agenda.

3. Minute of Meeting dated 30 August 2018

The Minute of the Meeting of the Moray Local Review Body dated 30 August 2018 was submitted and approved.

4. Site Inspection

The Chair stated that a site inspection for Case No LR213 took place on Thursday 20 September 2018, with the Members and Officers of the Moray Local Review Body in attendance with the exception of Councillors R McLean and Ross. As Councillor R McLean was present at the Meeting it was queried whether he considered he was able to take part in the determination having not been on the site inspection.

In response, Councillor R McLean stated that whilst he was not on the site inspection, he had read the papers which were very thorough and was confident that he had enough information to determine the case.

The Legal Adviser advised that it was custom and practice for Members of the MLRB to attend site inspections prior to determining the cases before them which, in her view, is preferable as each Member can view the site at the same time and be party to the same information. She further advised that this is not a policy and down to individual choice however determining an application without attending the site visit would not be her legal advice but it was for each Member to decide for themselves. As there had been some discussion in this regard recently, a report is to be considered at the next meeting of Moray Council to provide certainty one way or another with regard to this matter. This was noted.

5. LR213 - Ward 2 Keith and Cullen

Planning Application 18/00694/APP – Installation of a 6kW Kingspan wind turbine (22.8m to tip and rotor diameter 5.6m) at Inchmore, Drybridge, 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 an application on the grounds that:

Noise emissions from the proposed turbine will on occasion adversely affect the amenity of nearby residential property, such that the proposal would therefore be contrary to Moray Local Development Plan (MLDP) 2015 Policies EP8 Pollution, ER1 Renewable Energy Proposals, IMP1 Developer Requirements and Moray Onshore Wind Energy Supplementary Guidance (2017).

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 20 September 2018, the Chair stated that all members of the Moray Local Review Body (MLRB) present, with the exception of Councillor R McLean, 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 Bremner, having had the opportunity to visit the site and consider the Applicant's grounds for review, was of the opinion that any noise generated from the start up of the turbine would be no greater than the significant ambient noise that had been observed on the site visit due to the windy conditions and considered the development would not have any detrimental impact on the neighbouring

property. He further stated that, given that the turbine was not going to add significantly to the existing ambient noise, in his view the application was not contrary to MLDP 2015 Policies EP8 Pollution, ER1 Renewable Energy Proposals, IMP1 Developer Requirements and Moray Onshore Wind Energy Supplementary Guidance 2017 and moved that the appeal be upheld and planning permission granted in respect of planning application 18/00694/APP. This was seconded by Councillor Coy.

In response, the Planning Adviser advised that the Environmental Health response stated that, although ambient noise may be greater in high wind conditions, the assessment of noise levels and correlation with wind speed should be carried out to the standards highlighted within ETSU-R-97 and the associated Institute of Acoustics Good Practice Guide Practice guide set out in the Moray Onshore Wind Energy Supplementary Guidance and that the Applicant's methodology used to assess the noise had not been undertaken in accordance with this Guide.

Councillor Gatt, having had the opportunity to visit the site and consider the Applicant's grounds for review was of the view that the Moray Onshore Wind Energy Supplementary Guidance was clear with regard to the methodology required to measure noise and, given that the Applicant had been advised on 2 occasions that failure to assess the noise in accordance with the appropriate Guidance would result in a refusal, moved that the appeal be rejected and the original decision of the Appointed Officer upheld for the reasons stated within the report. This was seconded by Councillor R McLean.

On a division there voted:

Motion (3): Councillors Bremner, Coy and Patience
Amendment (3): Councillors Gatt, R McLean and Alexander
Abstentions (0): Nil

There being an equality of votes, the Chair, in terms of Standing Order 62 (e), cast her casting vote in favour of the Motion.

Accordingly the Motion became the finding of the Meeting and it was agreed that the MLRB uphold the appeal and grant planning permission in respect of planning application 18/00694/APP subject to standard conditions as it was agreed the turbine was not going to add significantly to the existing ambient noise and was therefore not contrary to MLDP 2015 Policies EP8 Pollution, ER1 Renewable Energy Proposals, IMP1 Developer Requirements and Moray Onshore Wind Energy Supplementary Guidance 2017.