

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 16 June 2022

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

PRESENT

Councillor Neil Cameron, Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Neil McLennan, Councillor Derek Ross, Councillor Sonya Warren

IN ATTENDANCE

Ms Webster, Principal Planning Officer (Strategic Planning and Development) 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 Macrae, 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 decision taken on how Members will vote on any item on the agenda. Councillor Warren declared an interest part way through the discussion on Case LR273, left the meeting and took no further part in the decision. There were no other declarations of Members interests in respect of the item on the agenda.

3 Minute of Meeting dated 31 March 2022

The Minute of the meeting of the Moray Local Review Body dated 31 March 2022 was submitted and approved.

4 LR273 - Ward 2 - Keith and Cullen

Councillor Warren left the meeting during consideration of this item and took no part in the decision, having realised that she had an interest.

Planning Application 21/01784/APP – Enlarge window and form new window at 17 Harbour Place, Portknockie, Buckie, Moray

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 contrary to the Moray Local Development Plan (MLDP) 2020: Policy EP9 Conservation Areas and related Replacement Windows and Doors Guidance, Policy EP3 part b Special Landscape Character, and Policy DP1 Development Principles because: The proposed UPVC windows which would be located on a prominent public gable are not considered to preserve or enhance the traditional character or appearance of the Conservation Area. The presence of additional UPVC units on this prominent public gable would further erode the traditional sense of place of the Portknockie Outstanding Conservation Area. The proposal therefore fails to comply with current policy requirements, the application is therefore refused.

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.

During discussion, the MLRB sought clarification from the Planning Advisers in terms of Policy EP9 Conservation Areas and related Replacement Windows and Doors Guidance, specifically in relation to a statement in the guidance that states that consideration should be given to surrounding properties when determining the application therefore, as many surrounding properties already had UPVC windows, should this not be taken into consideration and also, what windows are acceptable when replacing those in a conservation area. It was further queried whether the other nearby properties with UPVC windows had been granted planning permission.

In response, Mr Henderson, Planning Adviser advised that Policy EP9 is clear in that it states that UPVC windows should not be permitted on a principal or public view and as the windows in question were on a prominent public gable, the policy had been applied correctly. With regard to suitable windows to replace those in a conservation area, Mr Henderson advised that replacement windows should be of the same traditional design and material. In relation to the query as to whether the other neighbouring properties had planning permission for their UPVC windows, Mr Henderson stated that this information was not known however should not be considered when making a determination on this case as each application should be considered on its own merits in accordance with the paperwork supplied and in conjunction with the policies in the adopted MLDP 2020.

Councillor Ross was of the view that, in terms of fairness, planning permission should be granted as he could see from the photographs of the surrounding area, which had been provided instead of a site visit, that there were many properties with UPVC windows nearby and that it was clear that Policy EP9 had not been observed in this conservation area. He further stated that UPVC windows are

more efficient and as the Council has climate change as one of its priorities then this is a relevant material consideration to depart from policy EP9. Councillor Ross therefore moved that the MLRB uphold the appeal and grant planning permission in relation to Planning Application 21/01784/APP as an acceptable departure from policy EP9 (Conservation Areas) in terms of UPVC windows being more efficient which is in line with the Council's Climate Change Strategy and also in terms of fairness as this policy had not been observed in this conservation area.

The Chair seconded Councillor Ross' motion and agreed with his points in relation to fairness, UPVC windows being more efficient than wooden and further stated that UPVC windows are safer than wooden in terms of fire safety and also more durable given that the property is next to the sea. The Chair also stated that, in relation to policies EP3 (Special Landscape Character) and DP1 (Development Principles) he was of the view that the proposal is in accordance with these policies.

In response, Ms Webster, Planning Adviser advised that efficiency and maintenance are not relevant material considerations when determining planning application.

Councillor Cameron agreed that decisions should be fair however should also be in line with policies in the adopted MLDP 2020 and moved that the MLRB uphold the original decision of the Appointed Officer and refuse planning permission in relation to Planning Application 21/01784/APP as it fails to comply with policies EP9 (Conservation Areas) and related Replacement Windows and Doors Guidance, EP3 part b Special Landscape Character and DP1 Development Principles of the MLDP 2020. This was seconded by Councillor Keith.

On a division there voted:

For the Motion (3):	Councillors Ross, Macrae and Dunbar
For the Amendment (5):	Councillors Cameron, Keith, Harris, McBain and McLennan
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the MLRB and it agreed to uphold the original decision of the Appointed Officer and refuse planning permission in relation to Planning Application 21/01784/APP as it fails to comply with policies EP9 (Conservation Areas) and related Replacement Windows and Doors Guidance, EP3 part b Special Landscape Character and DP1 Development Principles of the MLDP 2020