

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 27 August 2020

remote locations via video-conference,

PRESENT

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

APOLOGIES

IN ATTENDANCE

Mr Henderson, Planning Officer as Planning Adviser, 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 of the Moray Local Review Body dated 25 June 2020

The minute of the meeting of the Moray Local Review Body dated 25 June 2020 was submitted and approved.

4 Minute of Special Meeting of the Moray Local Review Body date 25 June 2020

The minute of the Special Meeting of the Moray Local Review Body dated 25 June 2020 was submitted and approved.

5 LR237 - Ward 8 - Forbes

Planning Application 19/01606/APP – Install new thermal panels and external wall opening at 71 Findhorn, Moray, IV36 3YF

Under reference to paragraph 5 of the Minute of the Meeting of the Moray Local Review Body (MLRB) dated 25 June 2020, the 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 grant planning permission subject to the following condition:

- i. The glazing in both the door and window shall be obscure glazed with glass of obscuration level 4 of the range of glass manufactured by Pilkington plc at the date of this permission or an equivalent manufacturer agreed in writing by this council (as Planning Authority). Glazing of that obscuration level shall be retained in those windows for the lifetime of the development hereby approved.

Reason: To avoid overlooking of the adjacent property in the interest of residential amenity.

The Chair stated that, at the meeting of the MLRB on 25 June 2020, the MLRB agreed to defer case LR237 to allow an independent person from the Planning Service to visit the site to obtain either a video or photographs of the site for the MLRB to consider and also allow the Appointed Officer to consider and comment on the photographs submitted by the Applicant with his Notice of Review Application.

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, Mr Henderson, Planning Adviser advised that the planning application had originally been assessed against policies within the Moray Local Development Plan (MLDP) 2015 however, now that the new MLDP 2020 had been formally adopted, the relevant planning policies are now DP1 (Development Principles) and EP9 (Conservation Areas).

Mr Hoath, Legal Adviser also advised that any decision made by the MLRB would need to relate to the new policies within the MLDP 2020.

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 Gatt, having considered the case in detail, noted that the Applicant was being asked to use obscure glass in his new window to prevent overlooking the adjacent property however noted that the adjacent property had a window that overlooked the Applicant's property and queried whether that window was obscure glazed.

In response, Mr Henderson, Planning Adviser advised that the photographs provided showed that the adjacent property did have a window that looks onto the Applicant's property and that it was not obscure glazed.

Councillor Bremner noted that the Applicant was replacing an existing window with clear glass with a slightly larger window and was of the view that the Applicant should not have to use obscure glass.

Councillor Alexander noted that the Applicant already had an upstairs window with clear glass that overlooked the adjacent property therefore was of the view there was no justification for obscure glass in the new window.

Councillor Powell noted the close proximity of houses which is typical of small fishing villages such as Findhorn which resulted in overlooking on each adjacent property.

Councillor Coy was also of the view that it was unfair to ask one neighbour to use obscure glazing in their window when the other neighbour had windows that had clear glass.

On hearing the debate, the Legal Adviser advised that should the MLRB be minded to uphold the appeal, it should take into consideration the relevant policies within the MLDP 2020. The Planning Adviser then confirmed the relevant part of policy DP1 being (i)(e) proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. This did not substantially differ from the wording of the original MLDP 2015 so the basis for determination had not changed.

The Chair, on listening to the debate and on hearing the advice from the Legal Adviser moved that the MLRB uphold the appeal and remove the condition which stated that the window should be obscure glazed as she was of the view that the proposal did not impact neighbouring properties by the window not having obscure glass therefore complied with policy DP1 and that there was no reference to obscure glass in policy EP9. This was seconded by Councillor Bremner.

There being no-one otherwise minded, the MLRB agreed to uphold the appeal and remove the following condition from the already consented Planning Application 19/01606/APP:

- i. The glazing in both the door and window shall be obscure glazed with glass of obscuration level 4 of the range of glass manufactured by Pilkington plc at the date of this permission or an equivalent manufacturer agreed in writing by this council (as Planning Authority). Glazing of that obscuration level shall be retained in those windows for the lifetime of the development hereby approved.