

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 25 February 2021

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

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, Councillor Taylor declared an interest in Item 5 Case LR250 and advised that she would take no part in the consideration of this case and sought the agreement of the Moray Local Review Body (MLRB) to pass the role of Chair to Councillor Bremner for that item. This was unanimously agreed.

There were no other 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 28 January 2021

The minute of the meeting of the Moray Local Review Body dated 28 January 2021 was submitted and approved.

4 LR249 - Ward 2 - Keith and Cullen

Planning Application 20/00647/PPP – Erect dwellinghouse on Plot 2, Bowie Croft, Grange, Crossroads, Keith

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 policies DP1 and DP4 of the Moray Local Development Plan (MLDP) 2020 and associated guidance on build up of housing in the countryside for the following reasons:

The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

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.

Following consideration, the MLRB unanimously agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/00647/PPP as it is contrary to policies DP1 (Development Principles) and DP4 (Rural Housing) of the MLDP 2020 and associated guidance on build up of housing in the countryside.

5 LR250 - Ward 8 - Forres

Councillor Taylor, having declared an interest in this item, took no part in the determination of this case and handed the role of Chair over to Councillor Bremner, as agreed by the Moray Local Review Body (MLRB) earlier in the meeting.

Planning Application 20/01059/APP – Retain installed uPVC windows at Craighor, 67 St Leonards Road, Forres

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 application fails to comply with the following policies (Moray Local Development Plan Policies EP9 & DP1) and should be refused for the following reasons:

- The proposal is contrary to Policy EP9 Conservation Areas as the removal of original timber windows and replacement with modern UPVC units located on the principal elevations would fail to preserve or enhance the character of the building or conservation area.
- By introducing modern UPVC windows into the conservation area, the proposal is considered to be contrary to Policy DP1 Development Principles as the appearance and material finish of the windows is not appropriate to the established traditional character of the surrounding area.

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.

Mrs Gordon, Planning Adviser advised that the comment from the Reporter on the windows found on the Appeal Decision Notice on page 195 of the agenda is not a material consideration and that it is the decision on the enforcement notice that holds weight, and not the Reporters comments in respect of the windows. This was noted.

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 Gatt, having considered the case in detail, noted that there were many houses within the conservation area with modern uPVC windows and acknowledged that the Applicant had went to great lengths to ensure that the replacement windows maintained the established traditional character of the surrounding area. He further stated that he was of the view that the Council's guidance on windows in conservation areas is unenforceable due to the volume of houses that already have uPVC windows in conservation areas and that it would be unreasonable, disproportionate and against natural justice to refuse this appeal. Taking this into consideration, Councillor Gatt moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/01059/APP as an acceptable departure from policies EP9 (Conservation Areas) and DP1 (Development Principals) of the MLDP 2020 for the reasons previously stated. This was seconded by Councillor R McLean.

In response, Ms Webster, Planning Adviser advised that the MLDP 2020 was recently approved and that the policy and guidance on windows in conservation areas is enforceable and enforcement action has and does take place where development has been undertaken that does not accord with the policy or has been unauthorised.

Councillor Coy disagreed with Councillor Gatt and stated that the Council should adhere to the policies agreed within the MLDP 2020 and moved as an amendment that the MLRB dismiss the appeal and refuse planning permission in respect of Planning Application 20/01059/APP as the proposal is contrary to policies EP9

(Conservation Areas) and DP1 (Development Principals) of the MLDP 2020. This was seconded by Councillor Alexander.

Councillor Gatt made further reference to the advice given by the Planning Adviser at the start of the meeting in relation to the comment from the Reporter and how it was not a material consideration to the case and stated that he had read the Applicant's appeal to the Scottish Ministers and, although not contained within the supporting documents provided by the Applicant, he was of the view that there was important information contained within the appeal that would help the MLRB come to a decision and asked the Legal Adviser if there was a way in which the MLRB could view the information contained within the Applicant's appeal to the Scottish Ministers.

In response, the Legal Services Manager confirmed that the comment from the Reporter on the windows found on the Appeal Decision Notice is not a material consideration and advised that the Applicant had submitted a new planning application which had been subsequently refused. She explained that the Applicant had then submitted an appeal against the decision of the Appointed Officer to refuse the new planning application and had included supporting information however had chosen not to include the information in the Appeal to the Scottish Ministers referred to by Councillor Gatt and that, should the MLRB wish to consider this information, then it would have to defer the Case for a further procedure.

On hearing the advice from the Legal Services Manager, Councillor Gatt stated that he would progress with his original motion.

On a division there voted:

For the Motion: (4)	Councillors Gatt, R McLean, Powell and Ross
For the Amendment: (4)	Councillors Coy, Alexander, Bremner and Cowie
Abstentions: (0)	Nil

Their being an equality of votes, and in terms of Standing Order 63 (e), the Chair cast his casting vote in favour of the Amendment and the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/01059/APP as it is contrary to policies EP9 (Conservation Areas) and DP1 (Development Principals) of the MLDP 2020.

6 LR251 - Ward 6 - Elgin City North

Councillor Taylor re-joined the meeting at this juncture and resumed the role of Chair.

Planning Application 20/00879/PPP – Erect Dwellinghouse on site adjacent to Birkenband Cottage, Birnie, Moray

The Chair advised the Committee of an error in the agenda which stated that this development was in Ward 6 Elgin City North when it should read Ward 4 Fochabers Lhanbryde. This was noted.

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 proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:

- i. The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.
- ii. The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 – Development Principles and DP4 - Rural Housing.

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.

Councillor Ross, having considered the case in detail, was of the view that this was an unacceptable build up of new housing in this area and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 20/00879/PPP as it is contrary to policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020. This was seconded by Councillor Alexander.

Councillor R McLean, having considered the case in detail, was of the view that the development would not constitute ribbon development as the properties were not in a straight line, were large plots that were not close together and could not be seen from the road due to the topography of the land and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/00879/PPP as, in his opinion, the proposal complied with policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020. This was seconded by Councillor Bremner who also noted that the development was outwith the pressurised area.

On a division there voted:

For the motion (3):	Councillors Ross, Alexander and Taylor
For the Amendment (6):	Councillors R McLean, Bremner, Cowie, Coy, Gatt and Powell
Abstention (0):	Nil

Accordingly, the amendment became the finding of the MLRB and it was agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/00879/PPP as the proposal complies with policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020.

7 LR252 - Ward 4 - Fochabers Lhanbryde

Planning Application 20/00878/PPP – Erect Dwellinghouse on site 284m south of Fogwatt Hall, Longmorn

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 proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-

The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 – Rural Housing.

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.

Councillor Gatt, having considered the case in detail, was of the view that the development would not constitute ribbon development as the properties were not in a straight line, were large plots that were not close together and could not be seen from the road due to the topography of the land and moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 20/00878/PPP as, in his opinion, the proposal complied with policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020. This was seconded by Councillor R McLean.

Councillor Ross, having considered the case in detail, was of the view that this was an unacceptable build up of new housing in this area and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 20/00878/PPP as it is contrary to policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020. This was seconded by Councillor Alexander.

On a division there voted:

For the motion (6):	Councillors Gatt, R McLean, Bremner, Cowie, Coy and Powell
For the Amendment (3):	Councillors Ross, Alexander and Taylor
Abstention (0):	Nil

Accordingly, the motion became the finding of the MLRB and it was agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/00878/PPP as the proposal complies with policies DP1 - Development Principles and DP4 - Rural Housing of the MLDP 2020.

8 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

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 proposed change of use is contrary to Moray Local Development Plan 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.

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 Advisers advised that they had nothing to raise at this time.

The Legal Adviser advised that the Applicant had included a Safety Statement that was not before the Appointed Officer at the time of considering the original planning application and that, should the Moray Local Review Body (MLRB) wish to view this additional information then, in terms of the procedure, the case should be deferred until the next meeting of the MLRB to allow the Appointed Officer the opportunity to consider and comment on the Safety Statement.

Councillor R McLean moved that the MLRB 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. This was seconded by Councillor Alexander.

There being no-one otherwise minded, the MLRB 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.