

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 28 February 2019

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, Councillor Amy Taylor

APOLOGIES

Councillor Ray McLean

IN ATTENDANCE

The Senior Planning Officer (Development Planning and Facilitation) and Mrs E Gordon, Planning Officer as Planning Advisers, Legal Services Manager as Legal Adviser and Mrs L 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 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 31 January 2019

The Minute of the Meeting of the Moray Local Review Body dated 31 January 2019 was submitted and approved.

4 LR219 - Ward 2 - Keith & Cullen

Planning Application 18/01280/APP – Proposed 3 Apt Dwelling House at the rear of 96 Moss Street, Keith, AB56 5HE (off “Sodgers Lane”, 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 an application on the grounds that:

The proposal is contrary to policies H3, IMP1 and H1 of the Moray Local Development Plan 2015 because both the proposed site and the site of the parent property fall significantly below the required 400sqm minimum plot size required by Policy H3. Therefore in this instance, the proposed parcel of land which measures 255.45 sq m is too small to be considered as a suitable house plot and would result in a cramped, over developed site which would fail to achieve an adequate level of amenity for both the proposed site and parent property. As a result, the proposal would have an intrusive impact on the site and surrounding area, including neighbouring properties and Sodgers Lane with the network of lanes in Keith providing an important element of the accessibility and permeability of the town. As such the proposal is contrary to the provisions of the Moray Local Development Plan 2015.

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 in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

With regard to the unaccompanied site inspection carried out on 26 February 2019, 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 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 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 visited the site and considered the Applicant's grounds for review accepted that the proposal was contrary to policy H3 in that the size of the site was significantly less than the minimum plot size specified within the policy however was concerned in relation to the pre-application advice given to the Applicant that had suggested that his revised proposal was a significant improvement on the original scheme and would be far more likely to gain support when weighed against the character of the surrounding area.

In response, the Planning Adviser advised that there appeared to be a difference in opinion between the Officer who had provided the preliminary advice and that of the Appointed Officer however preliminary advice is always given with a disclaimer which states that the preliminary advice does not prejudice the actual determination of the application.

Councillor Gatt sought further clarification from the Legal Adviser as to whether the MLRB could grant planning permission on the grounds that policy H3 does not apply in this case, if the MLRB were of the view that the design of the proposal would fit comfortably with the character of the area.

In response the Legal Adviser advised that the Moray Local Development Plan was the MLRB's guiding document when determining planning applications and that policy H3 should always be applied unless there was a relevant material consideration that warranted a departure from the policy.

Councillor Alexander was of the same view as Councillor Gatt however had some sympathy for the Applicant given that there appeared to be no hope of the application ever being approved as the plot size fell significantly short of the minimum required plot size detailed in policy H3. Councillor Alexander further noted that the Applicant had been led to believe that there was a chance that his application could be approved given the advice at the preliminary enquiry stage and queried whether there was any means by which the Council could reimburse the Applicant for any money he has lost as a result of the advice given.

In response, the Legal Adviser advised that the MLRB could not make a recommendation in relation to reimbursement of money lost by the Applicant and reiterated that the MLRB was only able to consider planning applications in terms of their planning merits however agreed to inform the Planning Service of the MLRB's concern in this regard.

Thereafter, Councillor Alexander moved that the MLRB agreed to dismiss Case LR219 and uphold the decision of the Appointed Officer to refuse planning permission in respect of Planning Application 18/01280/APP as the proposal was contrary to policies H3, IMP1 and H1 of the Moray Local Development Plan 2015.

There being no-one otherwise minded, the MLRB agreed to dismiss Case LR219 and uphold the decision of the Appointed Officer to refuse planning permission in respect of Planning Application 18/01280/APP as the proposal was contrary to policies H3, IMP1 and H1 of the Moray Local Development Plan 2015.