

# **MORAY COUNCIL**

## **Minute of Meeting of the Moray Local Review Body**

**Thursday, 26 September 2019**

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

### **PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Amy Taylor

### **APOLOGIES**

Councillor Ray McLean, Councillor Derek Ross

### **IN ATTENDANCE**

The Senior Planning Officer (Development Planning and Facilitation) 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.

### **Chair**

Councillor Taylor, being Chair of the Moray Local Review Body, chaired the meeting.

### **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.

### **Minute of Meeting dated 29 August 2019**

The Minute of the Meeting of the Moray Local Review Body dated 29 August 2019 was submitted and approved.

### **LR225 - Ward 8 - Forres**

#### **Planning Application 18/01568/APP – Erect Dwellinghouse at Plot 1, Innesmhor, Findhorn, Forres, Moray, IV36 3YL**

Under reference to paragraph 4 of the Minute of the Moray Local Review Body (MLRB) dated 29 August 2019, 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 refuse an application on the grounds that the proposal is

contrary to policies H3 and IMP1 of the Moray Local Development Plan (MLDP) 2015 for the following reasons:

The proposal falls below the minimum site area criteria of 400sqm (excluding access) as required by policy H3 for new house plots formed through subdivision, and is considered to be too small to adequately accommodate the proposed development in this location without adversely impacting the character and amenity of the surrounding area. Although the current proposed house is modest, the limited size of the plot would mean that it would lead to cramped development that would fail to reflect the density of development in the immediate vicinity, which is characterised by larger dwellings in more spacious plots. This deviation from the density of development in this part of Findhorn would be detrimental to the character and amenity of the surrounding area and contrary to policies H3 and IMP1, and on this basis the application is recommended for refusal.

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.

The Chair stated that Case LR225 was deferred at the meeting of the MLRB on 29 August 2019 as it was agreed that the Applicant had raised new matters within their Notice of Review and supporting documentation which were not before the Appointed Officer at the time of the application which constituted new evidence in terms of Regulation 17 of the Regulations. In accordance with the Regulations, the Appointed Officer was given the opportunity to make representations on the new evidence as set out in Appendix 5 of the report.

With regard to the unaccompanied site inspection carried out on 23 August 2019, the Chair stated that all present members of the MLRB, with the exception of Councillor Bremner, 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. Councillor Bremner further stated that he had visited the site on his own in order to familiarise himself with the location.

In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, the Legal Adviser advised that he had nothing to raise at this time. The Planning Adviser advised that the Developer Obligations Officer had confirmed that the Applicant was willing to pay the developer obligations for the proposed development to comply with policy IMP3 (Developer Obligations) of the MLDP 2015, should the MLRB decide to grant planning permission.

Having been provided with a response from the Appointed Officer in terms of the new evidence, the Chair 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.

Councillor Alexander, having visited the site and considered the Applicant's grounds for review was of the view that the plot size was too small for the development in terms of policy H3 of the MLDP 2015 and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 18/01568/APP as it is contrary to policies H3 (Sub-division for House Plots) and IMP1 (Developer Requirements) of the MLDP 2015.

There being no-one otherwise minded the MLRB agreed to dismiss Case LR225 and uphold the original decision of the Appointed Officer to refuse Planning Application 18/01568/APP as the proposal is contrary to policies H3 (Sub-division for House Plots) and IMP1 (Developer Requirements) of the MLDP 2015.

### **LR228 - Ward 3 - Buckie**

#### **Planning Application 19/00294/PPP – Erect New Dwelling House at Plot 1, Rathven Station, Buckie, AB56 4DW**

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 the provisions of the adopted Moray Local Development Plan (MLDP) 2015 (Policies E10, H7, T2 and IMP1) and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' because:

- i. As an application for a new dwelling at this location, the proposal would have an adverse impact on the Buckie Countryside Around Town designation and its objectives, and would not help to preserve the special character of the countryside at this location or preserve the distinction with the built up environment.
- ii. The siting of an additional dwelling at this location adjacent to an existing small rural cluster would lead to a build-up of development which would be detrimental to the character and setting of this small grouping and the character and appearance of surrounding countryside by increasing the number of rural dwellings present at this location.
- iii. The proposed development, if permitted, would involve the intensification of use of two existing vehicular accesses onto the A98 Fochabers - Cullen road which suffer from sub-standard road alignment and where visibility is restricted adjacent trees/ hedges/ obstructions and would likely give rise to conditions detrimental to the road safety of road users contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.

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 20 September 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 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 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.

Councillor Gatt, having had the opportunity to visit the site and considered the Applicant's grounds for review agreed with the reasons for refusal given by the Appointed Officer, particularly in terms of the concerns raised by the Transportation Service in relation to visibility when entering or leaving the proposed development and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00294/PPP as the proposal is contrary to policies E10 (Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.

There being no-one otherwise minded, the MLRB agreed to dismiss Case LR228 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00294/PPP as the proposal is contrary to policies E10 (Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.

### **LR229 - Ward 3 - Buckie**

#### **Planning Application 19/00295/PPP – Erect New Dwelling House at Plot 2, Rathven Station, Buckie, AB56 4DW**

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 the provisions of the adopted Moray Local Development Plan 2015 (Policies E10, H7, T2 and IMP1) and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' because:

- i. As an application for a new dwelling at this location, the proposal would have an adverse impact on the Buckie Countryside Around Town designation and its objectives, and would not help to preserve the special character of the countryside at this location or preserve the distinction with the built up environment.
- ii. The siting of an additional dwelling at this location adjacent to an existing small rural cluster would lead to a build-up of development which would be detrimental to the character and setting of this small grouping and the character and appearance of surrounding countryside by increasing the number of rural dwellings present at this location.
- iii. The proposed development, if permitted, would involve the intensification of use of two existing vehicular accesses onto the A98 Fochabers - Cullen road which suffer from sub-standard road alignment and where visibility is restricted adjacent trees/ hedges/ obstructions and would likely give rise to conditions detrimental to the road safety of road users contrary to Moray

## Local Plan policies T2 Provision of Access and IMP1 Development Requirements.

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 20 September 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 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 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.

Councillor Coy, having had the opportunity to visit the site and considered the Applicant's grounds for review agreed with the reasons for refusal given by the Appointed Officer, particularly in terms of the concerns raised by the Transportation Service in relation to visibility when entering or leaving the proposed development and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00295/PPP as the proposal is contrary to policies E10 (Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.

There being no-one otherwise minded, the MLRB agreed to dismiss Case LR229 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00295/PPP as the proposal is contrary to policies E10 (Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.