

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 24 February 2022

Various Locations via Video-Conference

PRESENT

Councillor David Bremner, Councillor Gordon Cowie, Councillor Donald Gatt, Councillor Aaron McLean, Councillor Ray McLean, Councillor Laura Powell, Councillor Derek Ross.

APOLOGIES

Councillor Louise Nicol, Councillor Amy Taylor

IN ATTENDANCE

Ms Webster, Principal Planning Officer (Strategic Planning and Development) Mrs Gordon and Mr Henderson, Planning Officer as Planning Advisers, Legal Services Manager as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1 Chair

Councillor Bremner, being Depute Chair of the Moray Local Review Body, chaired the meeting in the absence of Councillor Taylor, Chair.

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 dated 27 January 2022

The Minute of the meeting of the Moray Local Review Body dated 27 January 2022 was submitted and approved.

4 LR267 - Ward 5 - Heldon and Laich

Planning Application 21/01206/APP – Erection oof 2no Self-Catering Apartments (East Wing) at Norland, Stotfield Road, Lossiemouth

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 design and siting of the proposal is considered to represent overdevelopment, whilst also having an adverse impact on the character and amenity of the surrounding area which is designated as a Special Landscape Area in the Moray Local Development Plan 2020 (MLDP). On this basis, the proposal fails to comply with MLDP policies DP1 - Development Principles, DP8 - Tourism Facilities and Accommodation and EP3 - Special Landscape Areas and Landscape Character.

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 she had nothing to raise at this time. Ms Webster, Planning Adviser advised of a typo within the Report of Handling which stated that planning permission had been granted when in fact it had been refused. This was noted.

The Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the Moray Local Review Body (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 21/01206/APP as the proposal is contrary to policies DP1 (Development Principles), DP8 (Tourism Facilities and Accommodation) and EP3 (Special Landscape Areas and Landscape Character) of the MLDP 2020.

5 LR268 - Ward 7 - Elgin City South

Planning Application 21/01153/APP – Carport with Balcony at 20 Elmfield Road, Elgin, IV30

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 carport and balcony are contrary to Moray Local Development Plan (MLDP) 2020 policy DP1 for the following reasons:-

1. The balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.
2. The balcony would be out of keeping with the scale and character of the existing dwellinghouse and 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, 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 moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/01153/APP as it is contrary to MLDP 2020 policy DP1 (Development Principles). This was seconded by Councillor A McLean.

There being no-one otherwise minded, the MLRB unanimously agreed to refuse planning permission in respect of Planning Application 21/01153/APP as it is contrary to MLDP 2020 policy DP1 (Development Principles) as the balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site and would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.

6 LR269 - Ward 6 - Elgin City North

Planning Application 21/01146/APP – Erection of hot sandwich shop including drive through at 4 Riverside Road, Elgin, IV30 6LS

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 Policies 2020 DP5 and Elgin I6 as the proposal use does not comply with the range of acceptable uses identified in policies DP5 and Elgin I6 would result in a loss of employment land in Elgin.

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, it was noted that there were other similar developments on this piece of ground and it was queried why this application had been refused when others had been granted.

In response, Mrs Gordon, Planning Adviser advised that policy DP5 and I6 designation clearly states that the industrial land in question should only be used for Class 4 (business use) Class 5 (General Industrial) and Class 6 (Storage and Distribution) and that using it for a hot sandwich shop does not fall into any of those categories. Mrs Gordon highlighted that it was acknowledged within the Report of Handling that there were similar developments surrounding the proposal however the MLDP 2020 was recently adopted and the Reporter had acknowledged the anomalies within this piece of land however was of the view that the remaining land should be designated employment land.

Councillor Gatt, having considered the case in detail, was of the view that the proposal is an acceptable departure from policy DP5 (Business and Industry) and Elgin I6 as the proposal is in keeping with surrounding businesses and will also provide employment in Moray in the form of 8 full time and 8 part time jobs. This was seconded by Councillor A McLean.

There being no-one otherwise minded, the MLRB agreed to grant planning permission in respect of Planning Application 21/01146/APP as the proposal is considered to be an acceptable departure from policy DP5 (Business and Industry) and Elgin I6 as it is in keeping with surrounding businesses and will also provide employment in Moray in the form of 8 full time and 8 part time jobs.

7 LR270 - Ward 5 - Heldon and Laich

Planning Application 21/00168/APP – Proposed erection of dwelling-house and attached garage at Plot 3 Easter Coltfoot, Alves, Elgin

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, DP4 and EP14 of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

1. The site lies within a Pressurised and Sensitive Area and as such policy DP4 outlines that no new housing will be permitted within these areas on the basis that further housing would exacerbate the build-up of housing which has already negatively impacted on the character of the countryside in this area.
2. The applicants have not provided a Noise Impact Assessment in support of the application and as such have failed to demonstrate that the occupants of the proposed house would not be subject to harmful noise pollution as a result of aircraft utilising RAF Kinloss.

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, Councillor Gatt questioned the validity of the information provided in the case as one of the reasons for refusal was that the Applicant had not provided a Noise Impact Assessment in support of the application to demonstrate that occupants of the proposed house would not be subject to harmful noise pollution as a result of aircraft utilising former RAF Kinloss. Councillor Gatt stated that a Notice to Airmen U0094/22 states that the air traffic zone around Kinloss has been withdrawn therefore Kinloss is no longer an airfield.

Mr Henderson, Planning Adviser advised that, in relation to noise contours, the Appointed Officer had referenced a Committee Report from 2014 in the Report of Handling which stated that even if an airfield is inactive, the MOD retains the right to reactivate the airfield if required therefore a noise impact assessment would still be necessary.

The Legal Adviser further advised that the difference between former Kinloss airfield and other airfields mentioned by Councillor Gatt which are no longer in use, is that Kinloss runways can still be used if needed as that is what the policy states and should be adhered to.

Councillor Gatt further stated that when viewing Kinloss airfield on google maps, there are large white crosses painted on the runway which indicates that no aircraft should land there and queried whether consideration of this application should be deferred so that Officers can look into this further.

The Legal Adviser advised that the MOD had asked that the noise contours remain within our policy and this stands until the MOD change their position.

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 21/00168/APP as the proposal is contrary to policies DP1 (Development Principles), DP4 (Rural Housing) and EP14 (Pollution, Contamination and Hazards) of the MLDP 2020.