

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 14 March 2024

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

PRESENT

Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Draeyk van der Horn, Councillor Sonya Warren

APOLOGIES

Councillor Neil Cameron

IN ATTENDANCE

Mrs MacDonald, Senior Planning Officer as Planning Adviser, Mr Hoath, Senior Solicitor and Mrs Smith, Solicitor as Legal Advisers and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1 Chair

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

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 21 and 23 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 18 January 2024

The Minute of the meeting dated 15 February 2024 was submitted and approved.

4 LR299 – Ward 6 – Elgin City North

Planning Application 23/01371/APP – Retrospective consent to convert part of garage to hair salon at 22 Duffus Crescent, 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 is contrary to the provisions of the Development Plan because:

- (i) The salon as a class 1 (shop use) is an incompatible use within a residential property.
- (ii) The salon within the private residential property is incompatible with the residential area, and the traffic movements with their associated noise and disturbance would have a significant adverse impact on the character and residential amenity of the surrounding residential properties.

The proposal is therefore contrary to National Planning Framework 4 (NPF4) Policies 16 b) and 14 c) and Moray Local Development Plan (MLDP) 2020 Policies DP1 (i) a) and PP2 of the Development Plan.

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 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 Dunbar, having reviewed the case in detail and visited the site of the application, noted the reasons for refusal however stated that she was of the view that, in terms of NPF4 Policy 16b) the proposal would contribute to providing and enhancing local infrastructure facilities and services and improve the residential amenity of the surrounding area. In terms of NPF4 Policy 14c), Councillor Dunbar believed the proposal was not detrimental to the area and is consistent with the 16 qualities of successful places. In terms of policies DP1 (Development Principles) (i) a) Councillor Dunbar stated that, in her opinion, the character of the proposal is acceptable and supports a walkable neighbourhood and in relation to PP2 (Sustainable Economic Growth) of MLDP 2020, stated that the proposal would contribute to the economic growth of the area and supports the Moray Economic Strategy. Taking all the above into consideration, Councillor Dunbar moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 23/01371/APP as, in her opinion, the proposal complies with policy 14c) (Design, Quality and Place) part c) and policy 16 (Business and Industry) part b) of NPF4 and policies DP1 (Development Principles) (i) a) and PP2 (Sustainable Economic Growth) of MLDP 2020.

Councillor van der Horn agreed to second Councillor Dunbar's motion stating that having a hair salon in a residential area should not be precluded.

Mrs MacDonald, Planning Adviser advised that, during the consultation period, the Transportation Section had suggested transportation conditions should the application be approved and sought clarification as to whether Councillor Dunbar's motion to grant planning permission would be subject to the suggested conditions from the Transportation Service.

In response, both Councillors Dunbar and van der Horn agreed to add the conditions from the Transportation Service to their motion.

Mrs MacDonald, Planning Adviser further highlighted that granting planning permission for this planning application would mean that the property could be used for class 1a use (shops, and financial, professional and other services) and sought clarification as to whether Councillors Dunbar and van der Horn wished to add a condition to ensure that the use be restricted to a hair salon and that only residents of the property could work there.

In response, both Councillors Dunbar and van der Horn agreed to add a condition to ensure that the use be restricted to a hair salon and that only residents of the property be permitted to work there.

There being no-one otherwise minded, the MLRB unanimously agreed to grant planning permission in respect of Planning Application 23/01371/APP as it is considered that the proposal complies with:

- NPF4 Policy 16b) as it would contribute to providing and enhancing local infrastructure facilities and services and improve the residential amenity of the surrounding area;
- NPF4 Policy 14c) as the proposal is not detrimental to the area and is consistent with the 16 qualities of successful places;
- MLDP 2020 Policy DP1 (Development Principles) (i) a) as the character of the proposal is acceptable and supports a walkable neighbourhood;
- MLDP 2020 Policy PP2 (Sustainable Economic Growth) as the proposal would contribute to the economic growth of the area and supports the Moray Economic Strategy; and
- subject to the following conditions and reasons:
 1. Within six months of the date of this decision notice the existing driveway shall be reconfigured and extended to provide four car parking spaces. The car parking spaces shall thereafter be retained within the site throughout the lifetime of the development for use by residents and customers, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/customers in the interests of an acceptable development and road safety.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended, revoked or re-enacted; with or without modification) and Article 3 and Classes 10 to 13a of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), the development hereby approved shall be used solely for a hair salon and for no other use or purpose.

Reason: To enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

3. The hair salon hereby approved shall only be operated by those permanently living at the house known as 22 Duffus Crescent, Elgin.

Reason: To ensure the scale of the activities at the premises is such that nuisance to neighbours is avoided.

4. No water shall be permitted to drain or loose material be carried onto the public footway/carrageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the access.