

MORAY COUNCIL

Minute of Meeting of the Moray Local Review Body

Thursday, 18 August 2022

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

PRESENT

Councillor Neil Cameron, Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Derek Ross, Councillor Sonya Warren

IN ATTENDANCE

Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mr Henderson, Planning Officer and Mrs Gordon, 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.

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 20 and the Councillor's Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decision taken on how Members will vote on any item on the agenda.

Councillor Dunbar declared an interest in Item 6 - Case LR273 and stated that she would leave the meeting and not take any part in the consideration of this item. There were no other declarations of Members interests in respect of the items on the agenda.

3 Minute of meeting dated 16 June 2022

The Minute of the meeting dated 16 June 2022 was submitted and approved.

4 LR274 - Ward 5 - Heldon and Laich

Planning Application 21/01277/APP – Demolish existing house and erect new dwellinghouse at 3 Town Hall Lane, Lossiemouth, Moray, IV31 6DF

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 Moray Local Development Plan 2020 because:

1. The large split level contemporary design proposed on this elevated prominent cliff top location would have an excessive over dominant impact on the site and its surrounds. The overall design, form, appearance and finish of the dwelling would be at odds with the more traditional existing established character at this locality resulting in a design which is out of character and incongruous to the site and its surrounds. The proposal therefore fails to reflect the traditional settlement character as required by Policy EP3 (i) b) and DP1 (i).
2. The design moves the footprint of the dwelling closer to the existing houses to the north therefore taking account of the extensive glazing and large outdoor terrace/balcony areas the design is also considered to result in unacceptable overlooking and privacy impacts for these existing neighbouring residential properties to the north of the site. The proposal therefore also fails to comply with the amenity considerations set out in policy DP1 (i) part (e).

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.

The Planning Adviser highlighted an inaccuracy in the Applicant's Statement of Case where reference was made to planning policy DP1 being introduced in June 2021 when all policies within the Moray Local Development Plan 2020 were adopted in May 2020. 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.

During discussion surrounding the reasons why the planning application had been refused, Councillor McBain noted that one of the reasons was due to the contemporary design of the proposal which was not considered to be in keeping with the other traditional buildings in the area. Councillor McBain noted that a contemporary dwelling had already been build next to the proposed development and was of the view that the proposal would have no impact or disadvantage on surrounding properties and moved that the appeal be upheld and planning permission granted in respect of Planning Application 21/01277/APP as the proposal is an acceptable departure from policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Dunbar.

Councillor Cameron acknowledged that the planning application was for a stunning development however agreed with the Appointed Officer in that it did not fit with the surrounding area and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/01277/APP as it is contrary to policies EP3 (Special

Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Keith.

On a division there voted:

For the Motion (3):	Councillors McBain, Dunbar and Macrae
For the Amendment (5):	Councillors Cameron, Keith, Harris, Ross and Warren
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the MLRB and it was agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning application 21/01277/APP as it is contrary to policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i).

5 LR275 - Ward 3 - Buckie

Planning Application 22/00140/APP – Replace modern windows that have failed for other modern windows at 6 Burnside Street, Findochty

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 development is contrary to Policy DP1: Development Principles, Policy EP10: Listed Buildings and Policy EP9: Conservation Areas of the adopted Moray Local Development Plan 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance for the following reasons:

1. The use of non-traditional materials such as UPVC is not acceptable for use on listed buildings and the proposed UPVC windows do not preserve the character and special historic interest of the listed building.
2. The use of UPVC windows would not be in compliance with Historic Environment Scotland advice on alterations to listed buildings (Managing Change in the Historic Environment - Windows) nor with the Moray Council's Replacement Windows and Doors Guidance which is clear that the use of non-traditional materials such as UPVC will not be acceptable in listed buildings.
3. The proposed development would not preserve and enhance the character and appearance of Findochty Outstanding Conservation 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.

During discussion, Councillor Ross stated that it was clear that the windows in the property needed replaced. He noted that there was already a lot of houses in the conservation area that had UPVC windows. He also noted the climate emergency and the cost of living crisis. In all the circumstances he moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 22/00140/APP as an acceptable departure to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray Local Development Plan (MLDP) 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance, stating that, in his view, it was unfair to impose this financial burden on the Applicant. This was seconded by Councillor Warren.

Councillor McBain agreed with Councillor Ross in that it was clear that the windows needed to be replaced and noted that the existing windows were aluminium and not wood and was of the view that UPVC windows would be more in keeping with the character of the area than aluminium.

Councillor Keith stated that the subject of replacing windows in conservation areas and on listed buildings with UPVC is regularly debated however the Council has adopted the policies within the MLDP 2020 therefore should uphold them. He therefore moved, as an amendment, that the MLRB uphold the original decision of the Appointed Officer and refuse planning permission in respect of Planning Application 22/00140/APP as the application is contrary to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray MLDP 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance. This was seconded by Councillor Cameron.

On a division there voted:

For the Motion (5):	Councillors Ross, Warren, Dunbar, Macrae and McBain
For the Amendment (2):	Councillors Keith and Cameron
Abstention (1):	Councillor Harris

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 22/00140/APP as an acceptable departure to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray Local Development Plan (MLDP) 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance.

6 LR276 - Ward 7 - Elgin City South

Councillor Dunbar, having declared an interest in this item, left the meeting at this juncture.

Planning Application 22/00130/APP - Erect outbuilding for use as hair salon/beauty parlour at 14 Turnberry 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 policy DP1 - Development Principles of the Moray Local Development Plan (MLDP) 2020 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential 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.

Following consideration, the MLRB agreed to uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/00130/APP as the proposal is contrary to policy DP1 (Development Principles) of the MLDP 2020.