

# **MORAY COUNCIL**

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

**Thursday, 27 February 2020**

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

### **PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Derek Ross, Councillor Amy Taylor

### **IN ATTENDANCE**

Mr Henderson, Planning Officer as Planning Adviser, Legal Services Manager and Mr Hoath, Senior Solicitor and as Legal Advisers and Mrs 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 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 30 January 2020**

The Minute of the meeting of the Moray Local Review Body dated 30 January 2020 was submitted and approved.

#### **4 Site Visits**

Councillor Ross stated that he was unable to attend the official site visit due to another appointment however had visited each site in his own time.

Councillor Coy stated that she was not able to attend the official site visit however was of the view that there was enough information within the papers for her to make an informed decision on each case.

**Planning Application 19/01290/APP – Change of use of first floor ancillary accommodation to holiday let at 17 Cathay Terrace, Cullen, Buckie, AB56 4RX**

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 ED8, IMP1 and PP3) because:

The proposal would result in the intensification of use of an existing domestic garage (permitted and conditioned for ancillary domestic purposes only), resulting in a form of backland development providing tourist accommodation which would be incongruous and detrimental to the character and amenity of the area; an area in which no other examples of backland development exist, exemplifying further how out of character the proposal would be in this particularly residential area. On this basis the proposal represents an unacceptable form of development which would result in an inappropriate use of an existing domestic garage building at this location. The proposal therefore fails to comply with Policies ED8, IMP1 and PP3 of the MLDP 2015.

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.

With regard to the unaccompanied site inspection carried out on 20 February 2020, the Chair stated that members in attendance at the official site visit 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 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 visited the site and considered the Applicant's grounds for review, stated that he agreed with the decision of the Appointed Officer and moved that the MLRB refuse the appeal as the proposal is contrary to policies ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements) and PP3 (Placemaking) of the MLDP 2015. This was seconded by Councillor Ross.

There being no-one otherwise minded, the MLRB agreed to dismiss Case LR233 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/01290/APP as the proposal is contrary to policies ED8 (Tourism Facilities and Accommodation), IMP1 (Developer Requirements) and PP3 (Placemaking) of the MLDP 2015.

**Planning Application 19/01014/APP - Renovation, under strict commercial budgetary limitations, of a significantly deteriorating hotel building with the objective of re-energising a rapidly failing business, in order to provide a social amenity on the side of the Speyside Valley that has absolutely no other alternative facility available to the community at Hotel 1881, Archiestown AB38 7QL**

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 BE3, H4 and IMP1) and should be refused for the following reasons:

- The proposal is contrary to Policy BE3 as the use of modern UPVC units would fail to preserve or enhance the character of the building or conservation area.
- The proposed replacement windows would introduce a visually intrusive feature into the historic streetscape. The design and material finish of the proposed replacement windows is unsympathetic and by being prominent would fail to preserve or enhance the conservation area.

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 February 2020, the Chair stated that members in attendance at the official site visit 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, the Planning Adviser advised that he had nothing to raise at this time.

The Legal Adviser advised that on the Notice of Review Application Form, the Applicant had requested a hearing session. Furthermore, the Applicant had indicated that there was information within the Notice of Review that was not before the Appointed Officer at the time of determination including photographs that had been submitted after the Notice of Review had been received. On this basis, the Legal Adviser asked the Moray Local Review Body (MLRB) to consider the Applicant's request for a hearing session and also whether they wished to consider the new information, in which case a further procedure would have to be undertaken to allow the Appointed Officer the opportunity to comment on the new information.

Following consideration, the MLRB unanimously agreed to defer Case LR234 to a Hearing where the Applicant will be allowed the opportunity to present his case and the Appointed Officer will be allowed the opportunity to comment on the new information contained within the Applicant's Notice of Review and expand on the reasons for refusal.

**Planning Application 19/01018/APP – Replacement windows to front and side elevation and new front door at 19 Reidhaven Street, Portknockie**

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 BE3, H4 and IMP1) and should be refused for the following reasons:

- The proposal is contrary to Policy BE3 as the use of modern UPVC units would fail to preserve or enhance the character of the building or conservation area.
- The proposed replacement windows would introduce a visually intrusive feature into the historic streetscape. The design and material finish of the proposed replacement windows and door is unsympathetic and by being prominent would fail to preserve or enhance the 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.

With regard to the unaccompanied site inspection carried out on 20 February 2020, the Chair stated that members in attendance at the official site visit 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 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 visited the site and considered the Applicant's grounds for review noted that the Applicant had replaced brown UPVC windows with white UPVC windows. He acknowledged these may not have been the original features which the policy and guidance was trying to protect but was the reality of the situation here. He further noted that the neighbouring property and indeed many other properties within the Portknockie Conservation Area have UPVC windows therefore was of the view that the Moray Council Replacement Windows and Doors Guidance is not enforceable and it would be unreasonable, disproportionate and against natural justice to refuse planning permission. He therefore moved that the MLRB uphold the appeal on the grounds that, in reality, the Applicant had replaced "like for like" as the policy required and grant planning permission in respect of Planning Application 19/01018/APP. This was seconded by Councillor Ross.

Councillor Alexander, having visited the site and considered the Applicant's grounds for review acknowledged the policies that the Council has in place to protect conservation areas and, as the Council has already taken enforcement action against people who have installed UPVC windows in conservation areas moved that the MLRB refuse the appeal as the proposal is contrary to policies BE3 (Conservation Areas), H4 (House Alterations and Extensions) and IMP1 (Developer Requirements) of the MLDP 2015. This was seconded by Councillor R McLean.

On a division there voted:

For the Motion (4):	Councillors Gatt, Ross, Bremner and Coy
For the Amendment (3):	Councillors Alexander, R McLean and Taylor
Abstentions (0):	Nil

Accordingly, the Motion became the finding of the meeting and the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 19/01018/APP as it was considered to be an acceptable departure from policy as the Applicant had, in reality, replaced "like for like" and it would be unreasonable, disproportionate and against natural justice to refuse planning permission.