

The Highland Council

Minutes of Meeting of the **Planning Review Body** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Thursday, 24 April 2014 at 11.00 am.

Present at the site inspection, 23 April 2014 at 9.40 a.m. (Item 6.2 below refers):

Mr T Prag
Mr G Farlow
Mr D Fallows

Mrs I McCallum
Mr M Rattray
Mr R Saxon

In Attendance:

Mr P Adams, Solicitor/Clerk
Mr D Polson, Independent Planning Adviser to the Planning Review Body
Mr S Taylor, Administration Assistant

Present at the site inspection, 23 April 2014 at 1.45 p.m. (Item 5.1 below refers):

Mr T Prag
Mr G Farlow
Mr M Rattray

Mr R Saxon
Dr A Sinclair

In Attendance:

Mr P Adams, Solicitor/Clerk
Mr D Polson, Independent Planning Adviser to the Planning Review Body
Mr S Taylor, Administration Assistant

Present at the site inspection, 24 April 2014 at 10.00 a.m. (Item 5.3 below refers):

Mr T Prag
Mr G Farlow
Mr D Fallows
Mrs I McCallum

Mr M Rattray
Mr R Saxon
Dr A Sinclair

In Attendance:

Mr P Adams, Solicitor/Clerk
Mr D Polson, Independent Planning Adviser to the Planning Review Body
Mr S Taylor, Administration Assistant

Also in Attendance:

For the Applicant:
Mr and Mrs Uzonoglu

Present at the scheduled meeting, 24 April 2014

Mr T Prag
Mr G Farlow

Mr M Rattray
Mr R Saxon

Mr D Fallows
Mrs I McCallum

Dr A Sinclair

In Attendance:

Mr P Adams, Solicitor/Clerk
Mr D Polson, Independent Planning Adviser to the Planning Review Body
Mr D Mudie, Planning Adviser
Mr S Taylor, Administration Assistant

Mr T Prag in the Chair

Preliminaries

The Chairman confirmed that the meeting would be webcast, and gave a short briefing on the Council's webcasting procedure and protocol.

Business

**1. Apologies for Absence
Liesgeulan**

Apologies for absence were received from Mrs I Campbell and Mr N Donald.

**2. Declarations of Interest
Foillseachaidhean Com-pàirt**

Item 5.2 – Mrs I McCallum (non-financial)
Item 5.4 – Mr D Fallows (non-financial)
Item 6.2 – Dr A Sinclair (non-financial)

3. Minutes of Meeting of 11 March, 2014

The Minutes of Meeting held on 11 March, 2014, copies of which had been circulated, were **APPROVED**.

Arising from the Minutes, in relation to Item 5.1, the Review Body **NOTED** that the Chairman was satisfied with the response he received from the Director of TEC Services regarding the delay in receiving information requested for this item.

4. Criteria for Determination of Notices of Review

The Clerk confirmed that, for all items on the agenda, Members had contained in their Booklets all information as supplied by all parties to the Notice of Review. Members needed to assess each application against the development plan and all relevant material considerations, taking account of the documents lodged by the applicant and interested parties, and to decide whether the application accorded with or was contrary to the development plan. Having carried out that assessment, Members needed to decide if the weight attached to material

considerations added to or outweighed their assessment of the application against the development plan.

5. Notices of Review Previously Considered

5.1 Erection of 1 No. 1mw Wind Turbine with a Height to Tip of 80m, Rotor Diameter of 60m, Height to Hub of 50m, Associated Access Track & Ancillary Development including Transformer Housing and Temporary Construction Compound on Land 700m North West of Lower Rumster, Lybster - Ventus Renewables Ltd, 13-00045 (RB-11-14)

There had been re-circulated Notice of Review No. 13-00045-Ventus Renewables Ltd for the erection of a single Wind Turbine with a Height to Tip of 80m, rotor diameter of 60m and height to hub of 50m, associated access track & ancillary development including transformer housing and temporary construction compound, on land 700m North West of Lower Rumster, Lybster, for Ventus Renewables Ltd.

Site Inspection – 23 April 2014

The Review Body had visited the site area on Wednesday, 23 April 2014, in relation to this item, with a view to holding a site inspection. However, whilst Members had viewed the historical building located in the vicinity of the proposed turbine, it had not been possible to gauge the impact of the turbine on the landscape due to poor visibility conditions.

Scheduled Meeting – 24 April 2014

Preliminaries

Mr D Fallows and Mrs I McCallum did not take part in this item as they had not attended the site inspection on 23 April 2014.

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body discussed whether its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet A of the agenda papers, and by the site inspection.

The Clerk highlighted to Members the limited scope for use of the visualisations of the application site during the site inspection due to the poor weather conditions and recommended that a further unaccompanied site inspection be undertaken. He advised that, should Members decide not to carry out a second site inspection, there was a risk that any decision taken by the Review Body could be challenged by the applicant or interested parties through the Court of Session, on the grounds that the site inspection had not been carried out in conditions which would have allowed reasonable determination of the

Notice of Review. It was for the Review Body to decide whether it had enough information to enable it to determine the Notice of Review.

The Chairman reminded the Review Body of the reasons for undertaking the site inspection: two of the three main objectives had been achieved, namely, receipt of improved visual information from the applicant and the inspection of the site in the context of its location near a historic building with listed status. The Review Body now needed to decide whether it was sufficiently familiar with the Caithness landscape from previous site inspections to determine the Notice of Review, or whether the site inspection should be repeated.

In discussion, Members gave consideration to a number of factors including the legal advice provided, the need to demonstrate transparency, and whether the improved visuals and past experience were sufficient to allow a decision to be taken without a further site inspection.

Whilst acknowledging the differing opinions of Members, the Chairman recommended that the Clerk's advice should be followed and a second site visit arranged. In this regard the Clerk confirmed that there were no time constraints on making a decision and suggested that the possibility of holding a special meeting of the Review Body to discuss the application on the same day as the site inspection at Council offices in the area be investigated. The Chairman confirmed that all Members of the Review Body would be eligible to attend, including those who had not attended the original site inspection on 23 April.

Decision

The merits of the application having not been discussed, the Review Body **AGREED** to **DEFER** consideration of the Notice of Review to the next appropriate meeting of the Planning Review Body, pending a further unaccompanied site inspection, this to be arranged by officials in consultation with the Chairman, with the possibility of holding a special meeting of the Review Body in Council offices in Caithness on the same day as the site inspection to be explored.

5.2 Erection of Croft House at Deer Park, Woodland Croft, Knockmuir, Avoch – Munro Harvesting, 13-00050 (RB-12-14)

Declaration of Interest - Mrs I McCallum declared a non-financial interest in this item on the grounds that she was a local Member for Ward 10, Black Isle, and therefore not permitted to participate in the determination of the Notice of Review. Mrs McCallum left the Chamber for this item.

There had been re-circulated Notice of Review 13-00050-Munro Harvesting for the erection of a croft house at Deer Park Woodland Croft, Knockmuir, Avoch, for Munro Harvesting.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet B of the agenda papers.

Debate and Decision

The application had been deferred from the previous meeting to allow further information on Policies and Supplementary Guidance to be provided, in particular those relating to housing in the hinterland and woodland croft development.

The Independent Planning Adviser provided a briefing, during which he advised that the application had been refused due to restrictions on housing within hinterland, as measured against Policy 35 "Hinterland Housing Policy" of the Highland wide Local Development Plan (HWLDP). However, the Council's Supplementary Guidance on Trees, Woodlands and Development, which had Development Plan status, stated that proposals involving any woodland croft, which in principle was supported by the Council, should be assessed against Policy 48 "New/Extended Crofting Townships" in the Highland Wide Local Development Plan. He advised that it was for Members to consider both the Supplementary Guidance and the HWLDP and decide where the balance, and greater weight, should lie in terms of the relevant policies and Guidance.

Having considered the supporting paperwork and the briefing by the Independent Planning Adviser, the Review Body discussed the Notice of Review. The Chairman advised that the issue for the Review Body to consider was whether refusal of the application was reasonable against Policy 35 "Hinterland Housing Policy" or whether the Council's New/Extended Crofting Townships Policy 48 of the Highland wide Local Development Plan should be seen as carrying the greater weight in this instance.

Points raised in discussion included that:

- the best possible option for economic success of any croft, whether it be woodland or any other type of crofting, was for the owner to live on site; this would reduce the necessity for the owner to travel back and forth, thereby supporting the Council's Low-Carbon Strategy
- the Council was supportive of woodland crofts and the business plan had indicated that a woodland croft could be realised on the site
- the business plan had not indicated a necessity to live on the croft and therefore a Section 75 should be imposed.

In response to questions, the Independent Planning Adviser confirmed that the site had been officially registered as a woodland croft with the Crofters Commission; and the Clerk provided background information on ways in which properties subjected to a Section 75, could be financed.

The Review Body **UPHELD** the Notice of Review on the grounds that the proposals met with the requirements of Policy 48 of the Highland-wide Local Development Plan and statutory Supplementary Guidance on Trees, Woodlands and Development and **AGREED** that powers be delegated to Planning Officers, in consultation with the Chairman, to impose planning conditions and reasons as appropriate, and subject to a Section 75 Agreement (Planning Agreement).

5.3 Erection of New Dwellings & Associated Works at Loch Earn, 165 Culduthel Road, Inverness – Uzonoglu, 13-00051 (RB-13-14)

There had been re-circulated Notice of Review 13-00051-Uzonoglu for the erection of a new dwelling house and associated works at Loch Earn, 165 Culduthel Road, Inverness, for Mrs Uzonoglu.

Site Inspection – 24 April 2014

Earlier in the day, the Review Body had held a site inspection in relation to this item. The purpose of the site visit was to allow Members to gauge the impact of the proposed dwelling in the context of the surrounding houses and the size and constraints of the plot.

Prior to concluding the site inspection, the Chairman had ascertained that Members were satisfied that they had gained a sufficient impression of the site.

Scheduled Meeting – 24 April 2014

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet C of the agenda papers and the site inspection.

Debate and Decision

Having considered the supporting paperwork, the Review Body discussed the Notice of Review. The Chairman advised that the main issue for Members to consider was whether the proposed dwelling house was appropriate in the context of the size of the garden plot and surrounding development, and therefore met the requirements of the Development Plan.

In response to a question, the Independent Planning Adviser clarified the use of the term “brown field” and advised that this classification was not particularly relevant to this application since, as part of a pre-existing garden, the ground was already ‘developed’. The ground clearance and removal of vegetation re-emphasised this view.

In discussion, Members gave consideration to a number of factors, including:

- the compatibility of the proposed house with the character of the housing in the surrounding area
- the impact of the development on visual amenity from the road
- the safety of the proposed access
- the impact of the proposed house on nearby properties, taking account of the lie of the land, and that the applicant owned the neighbouring property and already had planning permission for an additional house.
- whether there was enough room on the site for the proposed house, given the constraints as to its position within the site, due to trees
- the potential damage to tree roots, and whether there should be replacement planting.

In response, Members were advised that, if the Review Body was minded to uphold the appeal, a condition could be placed requiring the house to be sited a sufficient distance from a particular tree, with clarification from the Council’s Tree Officer as to appropriate safeguarding. Members were also provided with technical information as to the required visibility splays expected for access onto minor residential roads in accordance with the Council’s Guidance - alterations to the boundary wall would be required in order to achieve these.

No consensus having been reached between the Members, the Chairman, seconded by Dr A Sinclair, moved that the Notice of Review be **DISMISSED**, on ground 1 as set out in the Appointed Officer’s decision notice. As an amendment, Mr D Fallows, seconded by Mr G Farlow, moved that the Notice of Review be **UPHELD**, on the basis that the additional house could be accommodated on the site without an additional undue impact on residential amenity, and therefore could be considered to be in accordance with the requirements of the Development plan subject to conditions to be delegated to Planning Officers, in consultation with the Chairman, but specifically to take account of replacement tree planting, , appropriate site access (and confirmation of alterations required to the boundary wall to achieve the recommended visibility splays) and an appropriate root protection of area.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (2): Mr T Prag and Dr A Sinclair

Amendment (5): Mr D Fallows, Mr G Farlow, Mrs I McCallum, Mr M Rattray and Mr R Saxon

Abstentions (0)

The Review Body therefore **UPHELD** the Notice of Review on the grounds that the proposals would meet the requirements of the Development Plan subject to conditions that reflected the points raised in discussion in relation to replacement tree planting, , site access (advice from TECS on alterations/re-modelling to the boundary wall to achieve the recommended visibility splays) and a sufficient root tree protection of area.

5.4 Replacement Windows and Shop Header at Monadliath, Main Street, Newtonmore – Harris Tweed Shop, 14-00002 (RB-14-14)

Declaration of Interest – Mr D Fallows declared a non-financial interest in this item on the grounds that he was a local Member for Ward 21, Badenoch and Strathspey, and therefore not permitted to participate in the determination of the Notice of Review. Mr Fallows left the Chamber for this item.

There had been re-circulated Notice of Review 14-00002-Harris Tweed Shop for replacement windows and shop header at Monadliath, Main Street, Newtonmore PH20 1DD, for the Harris Tweed Shop. The Independent Planning Adviser used Google Earth and Streetview to show the location of the site both in terms of a broad overview, and as seen from the adjacent/opposite sides of the road. The Chairman reminded Members that the information on Google Earth and Streetview could not be guaranteed to be up to date – a degree of caution was required when using this source of information. In this regard, the Independent Planning Adviser advised that the Streetview had been dated July 2011.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet D of the agenda papers, and the Google Earth and Streetview presentation.

Debate and Decision

Having considered the supporting paperwork, the Review Body discussed the Notice of Review. The Chairman summarised that, for this item, Members were being asked to consider whether changes to the facia of the shop front would be detrimental to the character of the street. The Planning Officer had raised no objections to the

refurbishment of the windows and therefore this part of the application was not under consideration.

In discussion, Members were generally of the view that the replacement shop header fascia would not be detrimental to the character of the building and surrounding area as the shop was located outwith the main shopping area. Members also highlighted that it was evident that previous work had been undertaken to the shop fascia and were of the view that the replacement sign would improve the appearance of the building.

In response to a question, the Independent Planning Adviser advised that, whilst the Cairngorms National Park Authority had not raised any objections, it had asked to be a Consultee on the application and requested that consideration be given to the use of timber finishes on the replacement sign.

The Chairman advised that, whilst the applicants had provided assurance that the original façade would not be destroyed, this could nonetheless be included as a condition of the planning permission should the Review Body be minded to uphold the appeal.

Thereafter the Review Body **UPHELD** the Notice of Review on the grounds that the replacement shop header fascia would not be detrimental to the character of the building and surrounding area, subject to conditions that the original façade would not be destroyed, but retained substantially intact or capable of appropriate re-instatement behind the new.

6 New Notices of Review to be Determined

6.1 Formation of 2 House Plots (One House per Plot) at Land North East of Myrtle Cottage, Whitebridge, Inverness, IV2 6UR – Mathieson, 13-00049 (RB-15-14)

The Chairman advised that Mr D Polson had previously been involved with this application in his role as planning officer, and was therefore ineligible to provide independent planning advice. The meeting adjourned for approximately 15 minutes and reconvened with Mr D Mudie acting as Independent Planning Adviser to the Review Body for this item.

There had been circulated Notice of Review 13-00049-Mathieson for the formation of two house plots (one house per plot) at land North East of Myrtle Cottage, Whitebridge, Inverness, IV2 6UR for Aros Mathieson. The Independent Planning Adviser used Google Earth to show the location of the site in terms of a broad overview.

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet E of the agenda papers, and the Google Earth presentation.

Debate and Decision

Having considered the supporting paperwork the Planning Review Body discussed the Notice of Review. The Chairman summarised that, for this item, Members were being asked to consider whether the partial replacement of trees was adequate to compensate for the loss of natural woodland caused by this housing development. In response to a question, the Chairman advised that discussions had taken place with the applicant regarding alternative sites for the housing plots, and that it was for the Review Body to consider the application on its own merits whilst taking into account the likelihood that all alternative options had already been investigated.

In discussion, Members were generally of the view that advice should be sought from the Forestry Officer regarding the extent of compensatory planting required to accommodate the development, and the types of trees that should be planted. As the application was for outline planning permission only, appropriate and sufficient compensatory planting should be included as a condition within any further detailed application.

In summarising discussion, the Chairman expressed the view that, whilst the strengthening of communities fitted with Council policies, in this particular application, appropriate compensatory planting had not been identified and he suggested that the application be deferred for advice from the Forestry Officer.

The Review Body **AGREED** to **DEFER** the Notice of Review to the next appropriate meeting of the Planning Review Body to allow further advice to be sought from the Forestry Officer on the issue of appropriate compensatory tree planting.

Mr D Polson resumed the role of Independent Planning Adviser to the Review Body

6.2 Erection of one 44m (Hub) High, 70m (Tip) High Wind Turbine plus Ancillary Development, at Land North of Beallach Farm, Jamestown, Strathpeffer – Ogden Renewable Energy, 14-00003 (RB-16-14)

Declaration of Interest – Dr A Sinclair declared a non-financial interest in this item on the grounds that she was a local Member for Ward 6, Wester Ross, Strathpeffer and Lochalsh, and therefore

not permitted to participate in the determination of the Notice of Review. Dr Sinclair left the Chamber for this item.

There had been circulated Notice of Review No. 14-00003-Ogden Renewable Energy for the erection of one 44m (Hub) high, 70m (Tip) high wind turbine plus ancillary development, at land North of Beallach Farm, Jamestown, Strathpeffer for Ogden Renewable Energy.

Site Inspection – 23 April 2014

The Review Body had held an unaccompanied site inspection on Wednesday, 23 April 2014, in relation to this item. The Chairman summarised that the purpose of the site visit was to allow Members to gauge the impact of the turbine on visual receptors and on the landscape.

The site inspection had viewed the site from a number of locations around the proposed development site. At each stop, with reference to the photomontages provided by the applicant, the Independent Planning Adviser had pointed out physical features relevant to the application.

Prior to concluding the site inspection, the Chairman had ascertained that Members were satisfied that they had gained a sufficient impression of the visual and landscape context of the site.

Scheduled Meeting – 24 April 2014

Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and his advice with regard to the way the Review should be determined (item 4 above refers), the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Booklet F of the agenda papers and the site inspection.

Debate and Decision

Having considered the supporting paperwork the Planning Review Body discussed the Notice of Review. The Chairman summarised the key issues surrounding the application, including the visual impact on receptors and the landscape from the tourist routes between Maryburgh and Contin and between Contin and Strathpeffer; the impact on local woodland walking routes such as Cnoc Mor and "The Cat's Back"; and the built-up nature of the landscape of Strathpeffer, where a significant quantity of housing was built on the hillside and would be able to view the turbine. He also advised that a previously unresolved objection comment from Highlands and Islands Airports Limited had now been resolved.

In discussion, a variety of views were expressed in relation to a number of issues, including:

- the degree to which the turbine would be visually intrusive in relation to hillside housing, tourist routes, viewpoints and the settlements of Jamestown and Strathpeffer
- how far the topography of hills and woodland would moderate the impact of the turbine on the nearest neighbours
- whether the finish of the turbine should be considered as a factor in assessing visual impact, alongside size, height and movement of the blades
- the balance between supporting national policy in favour of wind energy where appropriate, and retaining the character of a given landscape, taking account of visibility to various receptors including from the road network and the importance of tourism.

Following a short adjournment and no consensus having been reached between the Members, the Chairman, seconded by Mr D Fallows, moved that the Notice of Review be **DISMISSED**, for the reasons given in the Appointed Officer's decision notice, excluding reference to the objection from Highlands and Islands Airports Limited which had been resolved. As an amendment, Mr R Saxon, seconded by Mr G Farlow, moved that the Notice of Review be **UPHELD**, on the basis that it was not considered contrary to Policy 67 of the Highland wide Local Development Plan, it would not have a significant detrimental visual impact, it would not have a significant detrimental impact on the landscape character and would not have a detrimental impact on the user experience of the footpaths around Cnoc Mor.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (3): Mr T Prag, Mr D Fallows and Mrs I McCallum

Amendment (2): Mr R Saxon and Mr G Farlow

Abstentions (0)

The Review Body therefore **DISMISSED** the Notice of Review on grounds 1 – 3 as set out in the appointed officer's decision notice.

The meeting ended at 1.05 p.m.