

## **The Highland Council**

Minutes of Meeting of the **Planning Review Body** held **remotely** on Tuesday, 23 November 2021 at 10.30 am.

### **Present:**

Mr R Balfour  
Mr R Bremner (except items 1 to 5.1, 6.2 and 6.3)  
Mrs I Campbell  
Mr L Fraser (except item 1)  
Mr A Henderson (except item 6.3)  
Mr W Mackay  
Mrs T Robertson

### **In Attendance:**

Mrs K Lyons Principal Solicitor/Clerk  
Mr M McLoughlin, Independent Planning Adviser to the Planning Review Body  
Ms A Macrae, Committee Administrator  
Mrs A MacArthur, Administrative Assistant

**Mr A Henderson in the Chair.**

### **Preliminaries**

The Chair 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**

An apology for absence was intimated on behalf of Mrs M Paterson.

#### **2. Declarations of Interest**

There were no declarations of interest.

#### **3. Minutes of Previous Meeting of 5 October 2021**

The Minutes of the previous Meeting held on 5 October 2021, copies of which had been circulated, were **APPROVED**.

#### **4. Criteria for Determination of Notices of Review**

The Clerk confirmed that, for all subsequent items on the agenda, Members had contained in their SharePoint all of the information supplied by all parties to the Notice of Review – namely everything submitted at the planning application stage and the Notice of Review stage from the applicant and interested parties together with the case officer's report on handling and the decision notice that had been issued. When new information had been identified and responded to by the case officer, that information had also been included in SharePoint.

Members were reminded that when determining each planning application subject to a Notice of Review, they were to give full consideration of the planning application afresh (also known as the "de novo" approach) in accordance with the advice contained in the

letter from the Chief Planner dated 29 July 2011. The Clerk confirmed that this meant that, in each Notice of Review case, the Review Body needed to assess the planning application against the development plan and decide whether it accorded with or was contrary to the development plan. Following this assessment, the Review Body then required to consider all material considerations relevant to the application and decide whether these added to or outweighed their assessment of the application against the development plan. In carrying out this assessment, all documents lodged by the applicant and interested parties needed to be considered by the Review Body – all material planning considerations required to be taken into account; considerations that were not material planning considerations must not be taken into account.

The Clerk also confirmed that Google Earth and Street view could be used during the meeting in order to inform Members of the site location; Members were reminded of the potential limitations of using these systems in that images may have been captured a number of years ago and may not reflect the current position on the ground. All the Notices of Review were competent.

## **5. Notices of Review Previously Considered**

### **5.1 Conversion of major part of existing hotel to residential flats, (Planning Reference: 17/02845/FUL) at Ossians Hotel, High Street, Fort William for Mr Derek Wallace 21/00011/RBREF (RB-12-21)**

**The substance of this item had been discussed at a meeting of the Planning Review Body on 29 June 2021. Only those Members present during this item at that meeting (Mrs I Campbell, Mr A Henderson, Mr W Mackay and Mrs T Robertson) participated in the determination of this item.**

**Mr R Bremner was not present for the entirety of this item and therefore was not entitled to participate in the determination of the Notice of Review. Mr R Bremner took no part in the discussion and determination of this Notice of Review.**

There had been circulated Notice of Review 21/00011/RBREF for conversion of major part of existing hotel to residential flats, (Planning Reference: 17/02845/FUL) at Ossians Hotel, High Street, Fort William for Mr Derek Wallace.

The Independent Planning Adviser advised that, at its meeting on 29 June 2021, the Planning Review Body had deferred consideration of this Notice of Review to seek, in summary:-

- visual information from the applicant to obviate the need for a site visit;
- an economic benefits case from the applicant;
- information from the Planning Service on required mitigation contributions, conditions, legal agreement clauses and possible additional mitigation measures on key issues;
- other miscellaneous points e.g. views on reasons for the lack of public comment; and
- the views of each party on each other's further information.

He explained that after initial contact with the Planning Service and the applicant in July 2021, both parties requested extra time to respond, and so the following amended timetable had been set:

- provision of specified information by both parties by 10th September 2021;
- response of each party on each other information by 22nd October 2021;

The Independent Planning adviser confirmed that whilst the Planning Service had provided the information requested, the applicant had neither provided any of the information asked for, nor commented on what the Planning Service had submitted.

In response to questions, the Independent Planning Adviser confirmed that:-

- the requirement for waste bins related to the proposal for residential flats on the upper floors of the existing premises. The potential use of the ground floor/basement for commercial purposes was not in the scope of this Notice of Review;
- the applicant had been provided with details of the expected raft of developer contributions, details of which he provided, and had not commented on this information or expressed a view as to how this would impact on the viability of the development;
- it would be feasible through a legal agreement to restrict the occupation of the residential flats to over 55 year olds;
- it would not be feasible by legal agreement to prevent the occupants of the residential flats from applying for parking permits;
- a properly dimensioned plan of the car parking arrangements had not been produced by the applicant. In conjunction with the Planning Service and Transport Planning, he had calculated that the realistic capacity of the available land for car parking was 6 spaces including provision for 2 disabled parking spaces. This represented a significant shortfall on the requirement for the developer to provide 48 off-street car parking spaces; and
- how the proposed design and elevations of the building would be modified in the proposed conversion of the existing building.

## Debate and Decision

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review during which Members expressed concern that applicant had not provided any of the additional information requested by the Review Body nor commented on the information the Planning Service had provided. The issues around car parking in this congested area and how the waste bins would be accommodated had not been addressed. It was considered the proposal was not an appropriate development for this location in Fort William and support was expressed for the case officer's reasons for refusing the application.

The Planning Review Body **DISMISSED** the Notice of Review for the reasons given on the decision notice issued by the case officer:

1. The increase in the height of the building would have a significant adverse impact on the street-scene of the town centre, by virtue of increasing the mass of this in-elegant building and it would dominate and appear overbearing particularly in relation to adjacent buildings, and in views from the bypass and from Fassifern Road. In addition, the coloured metal cladding would not make a positive contribution to the architectural and visual quality of the town centre in this prominent site. On the High Street side, the design and arrangement of dormer windows in the enlarged roof over the older sandstone element of the building, would appear incongruous in relation to the high-quality sandstone elevation below. The development would thereby not accord with policy 29 of the HwLDP

2. The applicant has failed to provide details of the pool car arrangements, the active travel improvements in lieu of the significant shortfall in parking provision, and no dedicated cycle parking is provided, all contrary to policy 56 of the HwLDP and the Council's Roads and Transport Guidelines for New Developments May 2013.

3.The applicant has failed to sufficiently demonstrate how waste bin provision could be accommodated for the development, contrary to policy 28 of the HwLDP and the Council's Roads and Transport Guidelines for New Developments May 13 (para 5.19.7 & appendix 8).

4.No details of Developer contributions have been provided, and there are inadequate details on which to make a proper assessment of the requirements, due to the failure to demonstrate how occupancy of the dwelling units would be restricted to older persons, aged 55+; contrary to policies 31 and 32 of the HwLDP and Developer Contributions Supplementary Guidance November 2018.

## 6. New Notices of Review to be Determined

### 6.1 Erection of 3 holiday lodges, artists studio, service building and implement shed with a 3 hole pitch and putt green, (Planning Reference: 21/00155/FUL) at Land 45M East Of Jacaranda, Muir Of Ord for Drynie Country Park 21/00042/RBREF(RB-17-21)

There had been circulated Notice of Review 21/00042/RBREF Erection of 3 holiday lodges, artists studio, service building and implement shed with a 3 hole pitch and putt green, (Planning Reference: 21/00155/FUL) at Land 45M East Of Jacaranda, Muir Of Ord for Drynie Country Park.

#### Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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 Members' SharePoint, no further procedures having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- should the lodges be assessed as housing under hinterland policy or not?
- if so, do they fall into any of the exception categories that would justify their location in principle within this countryside area?
- if there is no fit with a hinterland exception, are there any other special circumstances that would justify the granting of planning permission; and
- is the project also/otherwise sensitively sited with regard to landscape and other important factors that must be respected in new rural development?

In response to questions, the Independent Planning Adviser:-

- confirmed that Transport Planning had not commented on the application and the visibility splays associated with the development complied with the relevant standards;
- provided further clarity on the proposed foul drainage infrastructure and the terms of Scottish Water's response on the water supply; and
- provided further clarity on the grading of the development site as non-prime farmland and that it was currently agricultural land.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation.

## Debate

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review during which there were comments in support of and against the case for development on non-prime agricultural land. However, there was a consensus amongst Members that sufficient mitigation had not been provided by which to overcome each of the policy considerations or meet any of the policy exceptions highlighted in the report of handling. Members therefore found no reason to overturn the case officer's decision to refuse planning permission.

## Decision

The Planning Review Body **DISMISSED** the Notice of Review for the reasons given on the decision notice issued by the case officer:

1. The proposal fails to accord with policies 28 (Sustainable Design), 35 (Housing in the Countryside - Hinterland Areas) and 44 (Tourist Accommodation) of the Highland-wide Local Development Plan (HwLDP). The proposal is located outwith a settlement and within an area of pressurised countryside known as the hinterland where tourist accommodation proposals are required to comply with HwLDP policy 35 and the related Housing in the Countryside Supplementary Guidance March 2013. The proposal is located within a currently undeveloped parcel of agricultural land and does not form part of the diversification of an existing agricultural or crofting enterprise. The proposal fails to meet any of the policy 35 siting criteria which seeks to minimise the impact of development upon agricultural land and rural character. Furthermore, the proposal is not considered to be a sustainable use of land within this pressurised area of countryside where development is directed to sites where loss of agricultural land and suburbanisation of the countryside is avoided or minimised.

### **6.2 Erection of house (Planning Reference: 20/04823/FUL) at Land 90M SE Of Rowan Cottage, Bogallan, North Kessock for Mr David Ritchie 21/00038/RBREF (RB-18-21)**

There had been circulated Notice of Review 21/00038/RBREF for the erection of house (Planning Reference: 20/04823/FUL) on land 90M SE Of Rowan Cottage, Bogallan, North Kessock for Mr David Ritchie.

## Preliminaries

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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 Members' SharePoint.

The Independent Planning Adviser reported the applicant had requested that the Notice of Review be deferred for further procedure on the basis additional time was required to look at site specifics and locations, including recent decisions issued around this particular site and to exhaust all other options before the application was determined by the Planning Review Body. In discussion with the Clerk, he advised that it was for Members to decide whether they had sufficient information to proceed and if not they should make clear what information was lacking and the procedure by which it should

be obtained. However, if Members felt there was sufficient information before them, then they should proceed to determine the Notice of Review.

Following discussion, Members requested sight of Google Earth and Streetview to inform their understanding of the application site, following which they would make a decision as to whether they had sufficient information to proceed to determine the Notice of Review.

The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

- whether the site forms part of a housing group and if so, whether its development would represent acceptable infilling or rounding off of that group;
- if not, whether the proposal meets any of the other exceptions in hinterland housing policy, or development is justified 'in principle' for other exceptional reasons; and
- whether the detailed siting and design of the proposal was acceptable if there are other general grounds for supporting it.

In response to questions, the Independent Planning Adviser clarified that from the information available the property opposite the proposed the development, Herdsman's Cottage, was let as a holiday cottage. Having checked with the case officer, there was no restriction on this property being used as a dwelling for permanent residential occupation.

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation.

## **Debate**

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review

In response to questions, it was clarified that the current adopted guidance on the definition of a housing group was in the process of being replaced by the new 'Rural Housing Supplementary Guidance' which provided for a more lenient policy approach to the criteria for forming a housing group. The new guidance had been approved but not yet adopted, and therefore had not yet replaced the current guidance, but was a material planning consideration. It was for Members to decide the weight to be accorded to the existing adopted guidance which formed part of the Development Plan against the emerging approved guidance which was settled view of the Council but which was not supported by the full weight of the Development Plan.

Thereafter, Members expressed concern that the proposal represented an inappropriate development into an undeveloped field that and that approval may lead to further development of this site. It was considered that more weight should be attached to the existing adopted guidance which formed part of the Development Plan in terms of the definition of a housing group. The development would therefore not represent acceptable infilling or rounding off of an existing housing group The Notice of Review should therefore be dismissed for the reasons given by the case officer.

## Decision

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the case officer:

1. The proposal is considered to be contrary to policy 35 - Housing in the Countryside (Hinterland Areas) - of the Highland-wide Local Development Plan as it fails to meet the Council's criteria for acceptable expansion of a housing group, or any other exception, listed within the policy and further detailed within the Housing in the Countryside and Siting and Design Adopted Supplementary Guidance. In particular, the site does not form part of a defined housing group, it does not share a well-defined and cohesive relationship with at least three other detached residential properties, which can be considered a housing group. Instead the proposal is an inappropriate intrusion into an undeveloped field. It fails to demonstrate the rounding off or consolidation of an existing housing group.
2. The proposal is considered to be contrary to policy 28 (Sustainable Design) of the Highland-wide Local Development Plan as it fails to demonstrate sensitive siting due to its location with an open and undeveloped field within an area of pressurised countryside.
3. The proposal, if approved, would establish a precedent for developments of a similar nature, this would undermine and weaken approved and proposed Council policy and guidance within the defined hinterland the aims of which are to prevent the suburbanisation of the countryside.

### **6.3 Erection of house (Planning Reference: 21/01827/PIP) on land 30M North Of Fairview House, Lochyside, Fort William for B Campbell 21/00040/RBREF (RB-19-21)**

**Mr A Henderson declared a non-financial interest in this item on the grounds that he was a local Member for Ward 11: Caol and Mallaig, and therefore not permitted to participate in the determination of the Notice of Review and he left the meeting for the determination of this item.**

**Mrs T Robertson, Vice Chair, took the Chair.**

There had been circulated Notice of Review 21/00040/RBREF for the erection of house (Planning Reference: 21/01827/PIP) on land 30M North Of Fairview House, Lochyside, Fort William for B Campbell.

### **Preliminaries**

Having **NOTED** the Clerk's confirmation that this was a valid and competent Notice of Review, and her 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 Members' SharePoint, no further procedures having been requested by the applicant.

Members requested sight of Google Earth and Streetview to inform their understanding of the application site. The Independent Planning Adviser provided this, during which he advised that the following determining issues should apply in relation to the application:-

Whether by virtue of its siting, the proposed house plot would be have unacceptable detrimental effects on:

- the landscape setting of Lochyside and the character of the local settlement pattern in the vicinity; and

- the integrity of croft land and the role/value it plays as part of the local green network in this location

Thereafter, the Review Body **AGREED** that its requirement for information had been satisfied by the Notice of Review documentation contained in Members' SharePoint and the Google Earth/Streetview presentation.

## **Debate**

Having considered the supporting paperwork and the Google Earth presentation, the Planning Review Body discussed the Notice of Review.

In discussion, it was suggested that the loss of the croft land (12%) would not be significant, the siting of the proposal was not considered to be sensitive given that 3-tier development already existed, and the loss of open space was not considered to be detrimental to existing residents.

A contrary view was expressed that planning permission had already been granted for a second house on this croft and the application would result in a third house on the site and the loss of croft land and of allocated land within the Green Network was not considered to be acceptable. Sufficient mitigation had not been provided to overcome the range of policy considerations relevant to the application and there was no reason to overturn the case officer's decision to refuse planning permission.

No consensus having been reached, Mrs T Robertson seconded by Mr L Fraser **moved** to **DISMISS** the Notice of Review for the reasons given on the decision notice issued by the case officer.

As an **amendment**, Mr W Mackay seconded by Mrs I Campbell **moved** to **UPHOLD** the Notice of Review and grant planning permission subject to conditions drafted by the Independent Planning Adviser to the Planning Review Body for the following reasons:

- The loss of the croft land (12%) was not considered to be significant;
- The siting of the proposal was not considered to be sensitive given that 3-tier development already exists; and
- The loss of open space was not considered to be detrimental to existing residents.

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

**Motion (3):** Mr R Balfour, Mr L Fraser, Mrs T Robertson

**Amendment (2):** Mrs I Campbell, Mr W Mackay

## **Decision**

The Planning Review Body **DISMISSED** the Notice of Review and refused planning permission for the reasons given by the case officer:

1. The development would lead to a loss of allocated land within the Green Network contrary to Policy 74 of the Highland wide Local Development Plan, 2012, the West Highland and Islands Local Development Plan, and adopted Green Networks Supplementary Guidance.



2. The proposal fails to demonstrate sensitive siting, would encroach further into undeveloped croft land than neighbouring development, at odds with the existing settlement pattern contrary to policies 28, 29, 34 and 47 of the Highland wide Local Development Plan, 2012.

3. The proposed house site would intrude into the open aspect and undeveloped croft land to the north west of Lochyside, detrimental to the landscape setting, character and distinctiveness of Lochyside, contrary to policies 28, 29 and 34 of the Highland wide Local Development Plan.

The meeting ended at 1.05pm.

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